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PART 46.

FURTHER CORRESPONDENCE

RESPECTING THE

AFFAIRS OF MOROCCO.

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January to June 1913.

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78	To Sir M. de Bunsen	41	14,	Tangier Commission. Refers to No. 71, and entirely approves terms of note addressed to Spanish Minister for Foreign Affairs in regard to composition of the Municipal Assembly. Gives reasons for objections to Spanish proposals that the number of councillors to be elected by European electors of the same nationality on a first scrutiny should be raised to four instead of three, and that the Moorish nominated member should be suppressed without being replaced by an additional elected member. A further note should be addressed to Minister for Foreign Affairs expressing regret of His Majesty's Government that they cannot issue fresh instructions to the British delegate on these points	107

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79	To Mr. White (Madrid)	..	Apr. 14, 1913	Tangier Commission. Refers to No. 71, and authorises to endeavour to arrange with French delegate some compromise with regard to appointment of chief executive officer	107
80	" "	..	14,	Administration of purely native affairs at Tangier. Transmits No. 73, and requests observations	108
81	Sir M. de Bunsen ..	62	12,	Tangier Commission. Transmits memorandum by Mr. White covering report by Mr. Brunyate on the scheme of judicial organisation drafted by M. Berge (see No. 50) and minutes of 14th meeting of Mixed Commission and of first seven meetings of jurists. Question of whether consular jurisdiction should be entirely abolished, or retained for criminal cases	108
82	" "	67	15,	Tangier Commission. Transmits memorandum by Mr. White on questions raised at 19th and 22nd sittings	127
83	To Mr. White (Madrid)	..	18,	Tangier Commission. Acknowledges No. 77, and approves resolutions adopted at 15th, 17th, and 18th meetings	134
84	Sir M. de Bunsen ..	73	17,	Tangier Commission. Delegates have agreed to a formula that, as a general rule, treaties which may be henceforth concluded between the Sultan and other Powers shall not be applicable in the international zone without the approval of the municipality. Treaties relating to customs tariffs and other cognate subjects requiring universal application throughout Morocco will form an exception and become <i>ipso facto</i> applicable in Tangier at the same time as in the French and Spanish zones	134
85	" "	75	19,	Tangier Commission. Transmits memorandum and minutes of 23rd and 25th meetings, at which the bearing of the Franco-Spanish Convention on the new arrangements for Tangier was discussed	135
86	Mr. White (Madrid)	..	19,	Administration of purely native affairs at Tangier. Refers to No. 80. Has discussed matter with Spanish delegate. Object of Spanish Government in bringing question forward is to limit functions of the Sultan's Khalifa and deprive him of right of appointing <i>cadi</i> and <i>nadir</i> . Has informed M. Padilla that he would be prepared to support him in suggesting that the wishes of the Moorish population in regard to these appointments should be met so far as possible, but that he cannot press the point if M. Dupeyrat insists on their appointment by the Khalifa. Is strongly opposed to creation of a Moorish "Consultative Assembly," as suggested by native delegates	141
87	Sir M. de Bunsen ..	77	23,	Tangier Commission. Transmits minutes of 26th meeting, at which decisions of the Commission of Jurists were discussed. British and French delegates have refused to consider question of nationality of the judges until that of the abolition of all consular jurisdiction has been settled	142

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88	Sir M. de Bunsen ..	9 Tel.	Apr. 26, 1913	Mining Regulations. Refers to No. 69. Spanish Minister for Foreign Affairs states that his Government had acquiesced in French view that draft regulations of 1910 had been virtually cancelled by refusal of Netherlands Government to accept them as they stood. He hopes, however, that it is not too late to communicate new regulations to Great Britain and Germany, if not to all Algeciras Powers, before promulgation in Morocco, so as to modify text, if necessary, to meet their views. He has telegraphed in this sense to Spanish Ambassador in Paris. French Ambassador learns that German Government intend to protest against the new regulations unless they are first submitted to them for concurrence	145
89	To Mr. White (Madrid)	..	28,	Tangier Commission. Refers to No. 82. Approves proposals made during 19th and 22nd meetings in regard to application of future treaties concluded by the Sultan in the international zone, power of municipality to frame or amend laws, appointment and nationality of officials, adjudication, commissions, and sale of Government lands. Postmaster-General is being consulted on question of British post offices throughout Morocco	145
90	" "	..	28,	Administration of purely native affairs at Tangier. Approves language held to Spanish delegate, as reported in No. 86. His Majesty's Government see no objection in principle to election of <i>cadi</i> , <i>nadir</i> , &c., being entrusted to the Moors, and would accordingly agree to this right being vested in the native members of the Municipal Assembly, though they would be opposed to the creation of a separate Moorish body for this purpose. Authorises to propose this solution if M. Dupeyrat concurs	146
91	" "	..	28,	Tangier Commission. Approves generally attitude on questions raised at 23rd, 24th, and 25th meetings, as reported in No. 85, and in particular agrees to arrangement proposed for composition of adjudication commissions, and in view that municipality need not necessarily be consulted by the Makhzen when negotiating for any modification of the customs tariff. Points out that His Majesty's Government cannot hold themselves irrevocably committed to any settlements reached by the Mixed Commission until they have considered and approved the scheme of organisation as a whole	147
92	Sir M. de Bunsen ..	78 Confidential	26,	Mining Regulations. Expands No. 88	147
93	" "	82	28,	Tangier. Spanish Government still insist on retaining a portion of their consular jurisdiction, surrendering only a certain category of cases to be dealt with by International Tribunal. Transmits memorandum by Mr. White, and correspondence with Spanish Minister for Foreign Affairs on the subject	149

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94	Viscount Kitchener ..	88	Apr. 27, 1913	Position of Moroccan subjects in Egypt. Refers to No. 16*. They number about 2,000, and their status is that of other foreigners who are not subjects of a Power which has not acquired special privileges by Capitulations or treaties. It would be very inopportune, at a moment when negotiations are proceeding with France for the suppression of the Capitulations, to extend their provisions to a large number of Mahommedans. Suggests that, if it is desired to meet French wishes in matter, the category of persons to be recognised as French-protected subjects should at any rate be restricted by application of Tunisian precedent of 1888 ..	152
95	Sir M. de Bunsen ..	83	30,	Tangier Commission. Transmits memorandum by Mr. White on 32nd meeting, reporting discussion with French delegate as to power of the Committee of Control in regard to dismissal and retention of the Sultan's Khalifa, and requesting instructions. As M. Dupeyrat has recently been basing various demands on predominant position of Spain and France in Tangier, Mr. White has taken an opportunity of placing it on record that His Majesty's Government cannot admit any such claim, which would be in direct contradiction to accepted principle of the equality of all nations in the international zone ..	153
96	Mr. White (Madrid)	..	30,	Tangier port works. Refers to No. 65. Summarises report of delegates of the Syndicat internationale pour le Développement de Tanger, who consider that the only practical course is to grant a concession for the construction and exploitation of a harbour, provided that the municipality can exercise control over the management and have power to buy out the concessionaires on reasonable terms and take over the exploitation when it is in a position to do so. Concurs generally in above view, and gives reasons why it may be advisable to grant the concession to the subsidiary company formed by the Société marocaine de Travaux publics rather than by putting it up to open tender, to risk its going to some company in which no British capital is represented	157
97	To Sir M. de Bunsen	12 Tel.	May 5,	Tangier. Consular jurisdiction. Approves action reported in No. 93, and informs that Spanish Ambassador has stated that French and Spanish delegates have come to an agreement as to composition of International Tribunal and retention by Spain of consular jurisdiction in criminal matters. Enquires facts, and instructs to press strongly for complete abolition of Consular Courts	162
98	To Sir M. de Bunsen	14 Tel.	6,	Tangier. Refers to No. 95. Explains that so long as Khalifa's functions are restricted simply to those exercised by him as a member of the Committee of Control it would be difficult to contest right of his Government to determine his appointment and dismissal. Approves protest made against claim of France and Spain to predominant position in Tangier	162

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99	Sir M. de Bunsen ..	14 Tel.	May 6, 1913	Tangier Commission. Refers to No. 97. French delegate denies having changed his attitude on subject of consular jurisdiction which he desires to see entirely abolished. All he did was to intimate to Spanish Under-Secretary of State privately that in the event of deadlock between Great Britain and Spain in matter he would endeavour to effect a compromise ..	162
100	"	86	5,	Tangier judicial system. Transmits minutes of meetings of three judicial advisers to the conference and summary of the conclusions arrived at by them, together with a report on the meetings of the Mixed Commission at which the jurists' resolutions were discussed (27th - 31st meetings)	163
101	Mr. Kennard ..	130	1,	Khalifa and High Commissioner of Spanish zone. Reports receipt of announcement by Spanish Minister of respective appointments of Mulai Mehdi and General Alfauas. Appreciation of both officials. Spanish Legation somewhat disturbed by attitude recently adopted by Raisuli	178
102	"	132	3,	Police at Tangier. Refers to No. 22. Emphasises need for an efficient municipal police, and defects of present force. French agent fully agrees as to necessity for the immediate provision of a force suitable to the requirements of the international zone. Suggests that Spanish authorities be warned, when sending expeditions into their zone, to take every precaution to conduct operations in the manner best calculated to avoid any incursion into the Tangier zone ..	179
103	Draft decree communicated by Mr. Brunyate	..	9,	Tangier. Draft decree establishing international tribunal	181
104	To Spanish Ambassador	..	9,	Foreign protection at Tangier. Informs that the British delegate on the Tangier Conference has been authorised to state that, in the opinion of His Majesty's Government, foreign protection in the Tangier zone should cease as soon as the International Tribunal is established, but that he has been instructed to make it clear that the interest of Menebhi and other British protégés at Tangier will in any case continue to be protected in the French and Spanish zones until His Majesty's Government have formally recognised the abolition of the Capitulations therein	192
105	Sir R. Rodd ..	117	7,	Italo-Spanish agreement in regard to their mutual treatment in Libya and in the Spanish sphere of Morocco. Transmits translation of agreement signed on 5th May. The two Governments express their intention to raise no objection reciprocally to the executions of such measures as each may desire to introduce; agree that the treatment contemplated by the Franco-Italian declaration of 28th October, 1912, shall be reciprocally assured; and mutually guarantee most-favoured-nation treatment in the two spheres of influence ..	192

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106	Sir M. de Bunsen ..	87	May 8, 1913	Tangier. Consular jurisdiction. Refers to No. 99 and transmits memorandum by Mr. White explaining attitude of his French colleague on question of retention by Spain of her consular jurisdiction. M. Dupeyrat will not accept any proposal which is not approved by His Majesty's Government. Fears that it will be impossible to induce Spain to consent to total renunciation of her jurisdiction	193
107	To Mr. Kennard ..	96	13.	Khalifa and High Commissioner of Spanish zone. Refers to No. 101. Instructs merely to acknowledge receipt of communication from Spanish Minister, but not to acknowledge that from Moorish Commissioner for Foreign Affairs, as His Majesty's Government have not yet recognised the French Protectorate, and cannot therefore take official notice of communications sent on behalf of the resident-general as Minister for Foreign Affairs to the Sultan. This attitude accords with the position of His Majesty's Government as defined in No. 10	195
108	To Board of Trade ..	Confidential	13.	Tangier port works. Refers to No. 96. Transmits copy of correspondence respecting, and requests early expression of opinion as to the attitude which should be adopted by His Majesty's Government. It is proposed to ascertain confidentially from Messrs. Pearson and Messrs. Jackson whether they would be willing to tender for the work	195
109	Sir M. de Bunsen ..	88	10.	Tangier Commission. Transmits minutes of 33rd-39th meetings respecting gambling question, protection of natives, powers of the municipality, passage of convoys &c. Memorandum by Mr. White	196
110	" ..	89	12.	Tangier. Consular jurisdiction. Refers to No. 97. Transmits correspondence with Minister of State respecting. Spanish Government appear determined to retain their jurisdiction in some matters, at least for the first few years. Suggests that in these circumstances Mr. White may be authorised to accept in the last resort the best arrangement obtainable with the help of his French colleague	204
111	To Spanish Ambassador ..	..	15.	Tangier. Consular jurisdiction. Gives reasons for strong objections of His Majesty's Government to retention of Consular Courts in any form whatever. They will, however, support any arrangement in regard to composition of International Tribunal whereby Spain will be assured that the administration of criminal justice to her nationals in Tangier will be efficient and satisfactory. Explains that some misunderstanding must have arisen in regard to views of French delegate on Madrid Conference, as latter has stated that he cannot but continue to support Mr. White in the matter	205
112	To Sir M. de Bunsen ..	15 Tel. Confidential	16.	Tangier. Consular jurisdiction. Refers to No. 110. His Majesty's Government cannot break up conference on this point, but must hold out as long as possible. Mr. White may in the last resort accept the best terms obtainable	206

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113	Sir M. de Bunsen ..	90	May 14, 1913	Tangier Commission. Transmits memorandum by Mr. White. Minutes of 40th-44th meetings	206
114	To Mr. White (Madrid) ..	..	19.	Tangier Commission. Approves resolutions adopted at 33rd-39th meetings (see No. 109)	212
115	Sir M. de Bunsen ..	92	18.	Tangier. Consular jurisdiction. Refers to No. 112, and transmits memorandum by Mr. White. Spanish Government consent slightly to enlarge list of offences within competence of the International Tribunal, and to sign an article expressing desire of the three Governments entirely to abolish Consular Courts as soon as possible. It is feared that no further concessions will be obtainable	212
116	To Mr. White (Madrid) ..	..	21.	Tangier Commission. Approves attitude at 40th-44th meetings, as reported in No. 113, and various resolutions adopted thereat	213
117	To M. Cambon ..	..	21.	Position of Moroccan subjects in Egypt. Replies to No. 11* in sense of Lord Kitchener's observations (see No. 94)	213
118	Mr. White (Madrid) ..	..	18.	Tangier port works. Refers to No. 108. Reports conversation with director of Compagnie marocaine and Société marocaine de Travaux publics respecting terms on which the Société internationale pour le Développement de Tanger desire to obtain a concession for exploitation of. The société will not tender for the construction, though some of the firms composing it will doubtless do so. If the société obtain port concession they will endeavour to secure concessions for other public works at Tangier, and wish to take up share in Tangier-Fez Railway. Has informed M. Caqueray that the immediate grant of a concession is not a matter within the province of the Mixed Commission	214
119	Mr. Kennard ..	148	17.	Khalifa and High Commissioner for Spanish zone. Has carried out instructions contained in No. 107. Unsettled outlook for Spanish zone. Breach between Raisuli and Spanish authorities	215
120	Sir M. de Bunsen ..	95	22.	Mining Regulations. Refers to No. 92. Summarises revised draft regulations. German Ambassador doubts whether his Government will accept them	216
121	" ..	96	22.	Tangier Commission. Transmits minutes of 45th-50th meetings, with memorandum by Mr. White. Questions left unsettled are: Nationality of judges, protection in international zone, ex-Sultans, &c. Is arranging with French Ambassador to interview Minister of State together to help to promote a settlement	217
122	Sir C. Hyde to Mr. Wellesley ..	..	23.	Tangier port works. Outlines terms on which Messrs. Pearson's might be willing to tender for the construction and exploitation of	224

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123	To Sir M. de Bunsen	17 Tel.	May 28, 1913	Tangier Commission. Refers to No. 121. His Majesty's Government accept formula respecting abolition of protection, subject to its ending where suggested by Mr. White, as remainder does not concern Tangier, and should not, therefore, form part of convention	226
124	Sir M. de Bunsen ..	99	26,	Tangier Commission. Refers to No. 121. Reports considerable advance in negotiations as result of interview with Minister of State. Questions still outstanding include management of Maritime Sanitary Board, administration of Public Works Department, &c.	227
125	Board of Trade ..	Confidential	28,	Tangier port works. Acknowledges No. 108. The Board consider that in all the circumstances His Majesty's Government may properly waive their objections to the construction of port works being undertaken by a concessionaire prior to the establishment of the municipality. It may be advisable that His Majesty's Government should acquiesce in the grant of the concession to the subsidiary company of the Société marocaine, but subject absolutely to the conditions recommended by Mr. White. Views of certain British contractors should, however, be ascertained before a final decision is taken	234
126	Sir M. de Bunsen ..	19 Tel.	29,	Tangier Commission. French delegate contends that municipality cannot have diplomatic dealings with Powers except through Sultan's Minister for Foreign Affairs, and that foreign representatives at Tangier are therefore not qualified to act as intermediaries between their Government and the municipality	234
127	To Mr. White .. (Madrid)	..	29,	Tangier Commission. Acknowledges No. 121, and approves various administrative arrangements decided upon at 45th-50th meetings	235
128	To Sir M. de Bunsen	18 Tel.	30,	Tangier Commission. Refers to No. 124. His Majesty's Government accept draft article respecting Public Works Department, but are altogether opposed to division of department into sections as proposed by Spanish Government. Objections to system of allotting too many posts under the municipality to particular nationalities. Mr. White should make it clear that His Majesty's Government must claim full liberty to examine this point when the whole draft agreement is before them	235
129	" ..	19 Tel.	30,	Tangier Commission. French delegate's proposal as to communications between municipality and foreign Powers (see No. 126). French contention seems theoretically unsound, involving as it does interference with autonomy of Spanish zone. It would also cause great practical inconvenience	235
130	Mr. Kennard ..	104 Confidential	24,	Spanish proposal for suppression of protection in Tangier zone. Refers to No. 121. Views of French agent and German Minister as to reasons for. Probably directed against Raisuli. German Minister fears that the Mannesmann	

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				brothers, who have close business relations with Raisuli, will bring such pressure to bear that he will be compelled to grant latter German protection. Has pointed out to Baron Seckendorff grave objections to such a proceeding in view of Raisuli's intrigues against Spanish authorities. Understands that German Government are most uncompromising in their refusal to consider any request to return to a stricter observance of treaty provisions as to political protection	235
131	Mr. Kennard ..	157	May 24, 1913	Situation in Spanish zone. Reports on. No improvement shown. Transmits copy of note from Moorish Commission for Foreign Affairs to Diplomatic Body respecting foreign claims in Spanish zone	236
132	Viscount Kitchener ..	54	24,	Position of Moroccan subjects in Egypt. Refers to No. 24. Spanish agent and consul-general has officially notified Egyptian Government that natives from Spanish zone are under Spanish protection. Requests instructions	237
133	Sir M. de Bunsen ..	102	29,	Tangier Commission. Transmits memorandum and minutes of 54th-57th meetings. Drafting of firman and convention have been commenced. It is proposed to make latter binding for twelve years	238
134	" ..	104 Very Conf.	30,	Tangier Commission. Extends No. 126. Transmits memorandum by Mr. White respecting attitude of French delegate in pressing that, when appointments have to be made at Tangier which are allotted to a particular nation, the Government concerned must be notified through the Resident-General at Rabat as the Sultan's Minister for Foreign Affairs. M. Dupeyrat's object appears to be to raise difficulties showing that the maintenance of the unity of Morocco is impracticable, or must in time give way to the complete independence of the three zones	244
135	" ..	22 Tel.	June 1,	Security of Tangier. French Government have stated in an urgent note that, in view of disquieting intelligence of attitude of tribes near Tangier, they are sending a cruiser there, and trust Spanish Government will take necessary precautions. Spanish Government consider French information exaggerated, but are sending a cruiser as France is doing so	246
136	Mr. Kennard ..	25 Tel.	2,	Security of Tangier. Refers to No. 135. French information respecting unrest in Tangier zone appears to be unfounded. No panic exists in town	246
137	To Sir F. Bertie ..	215 Tel.	2,	Security of Tangier. Instructs to acquaint French Minister for Foreign Affairs that information of His Majesty's Government does not show any cause for special anxiety, and to deprecate any sending of cruisers as suggested by French Government (see No. 135) as likely to give rise to panic	247
138	To Sir M. de Bunsen	22 Tel.	5,	Tangier Commission. Approves generally draft decree establishing International Tribunal (see No. 103), subject to additions based on Nos. 115 and 123	247

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139	Mr. Kennard ..	160	May 31, 1913	Situation in Spanish zone. Refers to No. 131, and reports that no change has occurred. No justification for nervousness of French agent in regard to security of Tangier, as native movement is at present entirely anti-Spanish and not anti-European ..	247
140	Sir M. de Bunsen ..	107	June 4,	Security of Tangier and situation in Spanish zone. Spanish Government are indignant at articles in French press reporting danger to Tangier owing to unrest round Tetuan ..	248
141	Mr. Kennard ..	26 Tel.	8,	Situation in Tangier zone. Refers to No. 136. Reports attack on Spaniards working on road 8 miles from Tangier and on two Spanish posts near Arzila. Former incident insignificant, but has caused some uneasiness in town ..	248
142	To Mr. Kennard ..	21 Tel.	9,	Situation in Spanish zone. Spanish Government attribute Arzila disturbances to machinations of Raisuli, against whom they intend to proceed. They have asked whether His Majesty's Government would object to their arranging with France that French police at Tangier should prevent his entering international zone. Is there any danger that such an arrangement would lead to international complications or to undesirable reinforcement of French position at Tangier? ..	249
143	Sir M. de Bunsen ..	109	7,	Mining regulations. Refers to No. 120. Conversation with German Ambassador respecting attitude of his Government. Prince Ratibor has been informed by Spanish Minister for Foreign Affairs that the revised regulations will be promulgated in the French zone on 25th June ..	249
144	Mr. Kennard ..	27 Tel.	9,	Security of Tangier. Objections to Spanish proposals respecting Raisuli referred to in No. 142. It would be difficult to prevent his entry into international zone. British, French, and Spanish representatives consider it advisable to safeguard Tangier by (1) warning Spanish Government to make every effort to prevent possibility of disturbances; (2) keeping French and Spanish warships permanently at Tangier; (3) renewing for six months contract of French and Spanish police, which expires on 1st July; (4) bringing police force up to full strength. French agent suggests doubling of force, but Mr. Kennard hesitates to recommend increase in its numbers ..	250
145	" ..	28 Tel.	10,	Security of Tangier. Refers to No. 144. Discusses alternative measures which might be taken with a view to definite pacification of district ..	250
146	To Mr. Kennard ..	22 Tel.	10,	Security of Tangier. Refers to Nos. 144 and 145. Spanish Ambassador informed that advantage of forcibly preventing Raisuli from entering Tangier zone was not clear, as existing French and Spanish police ought to be able to disarm his followers. It seemed undesirable to invite France to take isolated action which might in case of failure serve as pretext for sending French military reinforcements to Tangier.	

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				Should disturbances render outside assistance necessary, England would feel compelled to send a man-of-war as well as France and Spain, and to authorise landing of naval detachment ..	251
147	To Sir F. Bertie ..	365	June 10, 1913	Security of Tangier. French Ambassador informed that there was no foundation for rumour that His Majesty's Government intended to send troops from Gibraltar to Tangier. If it became necessary for a force to be landed there, they would co-operate with France and Spain in sending ships ..	251
148	Sir M. de Bunsen ..	118 Confidential	9,	Situation in Spanish zone. Refers to No. 140. Great unrest exists among the tribes. Conversation with Spanish Minister for Foreign Affairs. Activity of Mannesmann agents in stirring up tribes. Additional troops are being despatched from Spain ..	252
149	M. Cambon ..	..	9,	Protection in Morocco. Replies to No. 67. States that semsars are to be found almost exclusively in the vicinity of Fez, and that they are practically all British protected. French Government have decided not to demand the erasure from the lists of protected persons of those inscribed ..	252
150	Note communicated by German Chargé d'Affaires ..	..	13,	Mining regulations. Refers to No. 143. German Government have provisionally examined draft of revised regulations, and have come to the conclusion that it is open to objection on score of Germany's treaty rights in Morocco. Subject to reserves on this point, they are ready to consider, in association with the French and Spanish Governments, how far the new draft can be brought into accord with that prepared in Paris in 1910. Should these negotiations lead to no result, only alternative would be to submit difference of opinion to The Hague Tribunal, as proposed by French and Spanish Governments ..	253
151	To Viscount Kitchener ..	100	13,	Position of Moroccan subjects in Egypt. Refers to No. 117 for guidance in dealing with claim of Spanish agent and consul-general at Cairo to protect Moors from Spanish zone (see No. 132). Decision in regard to French applies equally to Spanish claim ..	254
152	Mr. Kennard ..	162	7,	Security of Tangier and situation in Spanish zone. Refers to No. 139. Reports on, with reference to report that French resident-general had been asked to send a cruiser to Tangier to prevent a panic there. No danger is apprehended to the international zone at present ..	254
153	" ..	163	8,	Situation in Spanish and Tangier zones. Refers to No. 152. Reports attack on Spanish labourers engaged in working on new road from Tangier to Sharf-el-Akab. No importance need be attached to this incident, but news from Tetuan is far from reassuring ..	256

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154	Mr. Kennard ..	165	June 8, 1913	Reports rumour that resident-general and Grand Vizier are about to resign their positions. Unlikely that General Lyautey will resign, but he is said to be most anxious to get rid of El Mokri, with whom he is on bad terms. French Government are opposed to latter step ..	257
155	" ..	167	10,	Security of Tangier. Refers to No. 153. Comments on situation as affected by disturbances in Spanish zone. British, French, and Spanish representatives have agreed to recommend to their Governments strengthening of police force and prolongation of its mandate. If, even then, it was not sufficiently large to maintain order, best plan would be to land an international force sufficiently large to guarantee the complete protection of the zone and render it possible for Spain to concentrate all her energies in her own sphere ..	258
156	Sir M. de Bunsen ..	115	12,	Situation in Spanish zone. Refers to No. 148. Reports on. Anxiety caused to Spanish Government by hostile attitude of tribes. Spanish objections to landing naval detachments to guard Tangier in case of necessity ..	260
157	Note communicated by M. Cambon ..	..	16,	Measures for ensuring safety of Tangier. Informs that British, French, and Spanish representatives at Tangier have agreed to recommend to their Governments bringing the two police tabors immediately up to their full strength or doubling their numbers, and renewing their mandate for another six months from 1st July. As regards the French tabor, Mr. Kennard is in favour of strengthening it by a large force of Algerians and of maintaining Major Toulat in command ..	261
158	Mr. Kennard ..	31 Tel.	18,	Security of Tangier. Refers to No. 146. Spanish cruisers have bombarded coast between Tangier and Ceuta. Suggests it would be well if Spanish Government were to warn Tangier authorities when about to undertake operations in immediate vicinity to frontier of Tangier zone. ..	262
159	To Mr. Kennard ..	24 Tel.	18,	Tangier police. Gives substance of No. 157, and informs that it is proposed to agree to French proposal to bring both tabors up to strength, but to refuse to accept those for doubling of force and introduction of Algerians ..	262
160	Mr. Kennard ..	32 Tel.	19,	Tangier police. Concurs in reply to French Government proposed in No. 159. Present police, with prolonged mandate, should be able to deal with any probable disturbance. Report that landing of British troops was contemplated is of course unfounded ..	262
161	To Sir M. de Bunsen ..	25 Tel.	19,	Security of Tangier. Refers to No. 158. Instructs to point out unofficially to Spanish Government that it would greatly strengthen hands of Tangier authorities if British, French, and Spanish representatives could be warned in general terms when military operations are contemplated near Tangier frontier ..	263

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162	Board of Trade ..	..	June 20, 1913	Mining regulations. Refers to No. 150. Provided revised regulations are applied impartially, no serious objection need be raised to them. A detailed statement of principal points in regard to which they might advantageously be amended will be furnished if desired. There is, however, no occasion for His Majesty's Government to associate themselves with German protest ..	263
163	Mr. Kennard ..	172	14,	Situation in Spanish zone and in Tangier district. Reports on ..	263
164	Sir M. de Bunsen ..	119	17,	Mining regulations. Refers to No. 143. Gives details of proposed conference at Berlin. Uncertain as yet whether Spain will participate in discussions. Regulations will not be promulgated for the present ..	265
165	" ..	25 Tel.	21,	Security of Tangier. Refers to No. 161. Minister for Foreign Affairs agrees that it is desirable that representatives of these Powers should be notified of any intended military operations near international zone, and has instructed Spanish High Commissioner accordingly ..	266
166	To Mr. Kennard ..	25 Tel.	21,	Relations between Tangier and Spanish zones. Spanish Government have asked His Majesty's Government to support proposal to be made at Tangier that the Tangier authorities should be held responsible for preventing natives crossing the frontier to take part in hostilities in Spanish zone. Instructs to consult his Spanish and other colleagues and telegraph observations ..	266
167	To Mr. Carnegie ..	387 Confidential	21,	Mining regulations. Refers to No. 164. Informs of negotiations to take place between French and Spanish Governments on one side and German Government on the other, and instructs to express hope of His Majesty's Government that they will be kept informed of progress of the negotiations, and to state that His Majesty's Government have considered the regulations, but cannot pronounce a definite opinion on them till result of discussions is known ..	266
168	Mr. Kennard ..	33 Tel.	22,	Relations between Spanish and Tangier zones. Has consulted Spanish and French colleagues in accordance with No. 166. Three representatives agree that only measures they can take are (1) to request Basha to warn heads of villages not to allow villagers to join fighting, and (2) to use influence with protected persons to represent to native population folly of identifying themselves with rebels in Spanish zone. Any attempts to prevent natives by force from crossing the frontier might involve the zone in hostilities, and it would be impossible to make Tangier authorities responsible for isolated action of certain inhabitants ..	267
169	To Mr. Carnegie ..	390	23,	Mining regulations. Refers to No. 167. His Majesty's Government learn that discussion is to take place at Berlin between French, German, and Spanish jurists, and in these circumstances they must claim the right to participate in the negotiations. Instructs to acquaint French Government accordingly, and to enquire approximate date of opening of the conference ..	267

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174	Board of Trade ..	Confidential	24,	Tangier port works. Refers to No. 125. In view of attitude of British firms consulted, the Board concur in the view that it is advisable for His Majesty's Government to acquiesce in the grant of a concession to a selected syndicate ..	269
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179	To Mr. Carnegie ..	407	26,	Mining regulations. Refers to No. 178. Conversation with M. Pichon and French Ambassador respecting. Their explanation of German attitude in matter. They were informed that German Government had only made a communication to His Majesty's Government <i>à titre de renseignements</i> , and had not asked them to take any action ..	272
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185	To Sir M. de Bunsen	26 Tel.	28,	Tangier. Informs of conversation with M. Pichon during visit of French President to London. Questions of chief executive officer, Public Works Department, and Maritime Sanitary Board. His Majesty's Government trust that, in view of way in which wishes of Spanish Government have been met, they will now agree to waive their claim to customs duties levied at Tangier on imported goods destined for Spanish zone. France has consented to waive her claim to duties on goods for French zone pending the completion of Tangier-Fez Railway ..	277

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CONFIDENTIAL.

Further Correspondence respecting the Affairs of Morocco.

PART 46.

[241]

No. 1.

Sir Edward Grey to Mr. White.

(No. 1.)

Sir,

Foreign Office, January 2, 1913.

IT is to be hoped that during the present year the negotiations relative to the establishment of an international municipality at Tangier will be brought to a satisfactory conclusion, upon which His Majesty's Government will be in a position formally to recognise the French protectorate in Morocco.

One of the results of such recognition will be an alteration in His Majesty's diplomatic and consular representation in Morocco, and the probable reduction of His Majesty's Legation at Tangier to an agency and consulate-general. It is advisable that the matter should be thoroughly discussed beforehand, and that it should be ascertained what economies, if any, can be effected. I request, therefore, that you will furnish me with a statement of the present organisation of the diplomatic and consular staff at Tangier, and with any suggestions you may have to offer as to a reduction of their numbers, a readjustment of their duties, and the fitting scale of salaries when the new order of things comes into existence.

The points which seem to require special consideration are:—

1. The rank and salary of the head of the mission.
2. The upkeep of the present legation house and consulate offices, in which direction room and expense might be saved.
3. The necessity, if any, of continuing the appointment of a diplomatic secretary at Tangier.
4. The question of the official member of the municipality, and his position on the consulate staff.
5. The general question of the British consulates in Morocco, such as whether they should continue to be under the direction of the British representative at Tangier, or any probable demand for an increase in the number of salaried posts. (Application has been made to the Treasury for a salaried vice-consul at Rabat.)

I should be glad to receive your observations on these points in due course, as well as any further remarks or suggestions that may occur to you in this connection.

I am, &c.

E. GREY.

[619]

No. 2.

Mr. White to Sir Edward Grey.—(Received January 6, 1913.)

(No. 320.)

Sir,

Tangier, December 28, 1912.

WITH reference to your despatch No. 162 of the 16th instant, relative to the Tangier road scheme, I have the honour to report that I find, on reference to the papers in the décanat, that M. Porché, in his last memorandum containing the

[1613]

B

modified scheme of road construction, which was approved by the diplomatic body, urges its acceptance on the grounds that "sa réalisation apportera à la future municipalité, sans engager ses ressources, une aide précieuse pour le développement de la ville." In his letter to the president of the Adjudications Committee of the "Caisse spéciale," the doyen states that "le corps diplomatique a approuvé le programme des travaux de voirie les plus urgents à exécuter à Tanger sur les fonds de la Caisse spéciale tel qu'il a été modifié dernièrement"

Both M. de Rappard and Sid Ali Zaky have assured me that it is clearly understood that funds to meet the cost of these works are a free grant from the "Caisse spéciale," and that there can be no question of an eventual reclaim for repayment. Sid Ali Zaky further informed me that the first letter he had received from the Makhzen had not been quite satisfactory, but that he had recently received a further letter that was all that could be desired. He reminded me that it had been originally decided that the funds of the "Caisse spéciale" should be treated as a whole, and applied indiscriminately to the most urgent works at any port without having regard to the sums that had been levied at any special port, and he added that this decision holds good until the separation of the zones becomes effective, and each zone retains the amounts collected at the ports within its limits.

In these circumstances I have not deemed it necessary to pursue the matter further.

I have, &c.

HERBERT E. WHITE.

[623]

No. 3.

Mr. White to Sir Edward Grey.—(Received January 6, 1913.)

(No. 324.)

Sir,

Tangier, December 29, 1912.

IN his despatch No. 308 of the 14th instant Mr. Kennard transmitted copy of a circular addressed to the corps diplomatique by the doyen communicating a letter from Sid Guebbas regarding the acquisition of land.

The new regulations drawn up by the Makhzen, or rather, presumably, by the French authorities, have given rise to much comment and dissatisfaction, and will probably meet with considerable opposition on the part of some of the foreign representatives, the interests of whose subjects will be seriously affected thereby. The German Minister has already expressed himself freely on the subject, and others have also mentioned this matter to me. Sid Ali Zaky, in private conversation with me, severely criticised these regulations, which doubtless caused him some anxiety, as I imagine his title to much of the land he has recently acquired would not bear close scrutiny.

The traffic in Government lands has recently been a public scandal, and one would entirely sympathise with the French authorities in the matter were it not that they themselves have been gross offenders in this respect, large tracts of Government land in the Tangier district having, as we know, been recently granted to their friends and protégés at their request. If a genuine and impartial enquiry could be held into all such grants during a definite period—during the year 1912, for example—throughout Morocco, we could, I think, but applaud the measure. It would, however, be a difficult question to deal with, as much of the land in question has since changed hands, and the rights of *bonâ fide* purchasers would have to be respected; they would be entitled to compensation for relinquishing their property, such compensation being paid by the person responsible for the original grant, in most cases Mulai Hafid, who doubtless was handsomely paid for the grants.

The question of sales "*sous seing privé*" also presents considerable difficulties, and it would probably be necessary to treat each case on its merits, as, whilst many of such sales were undoubtedly fraudulent, others were *bonâ fide* transactions, recourse having been had to this form of sale owing to the obstruction of the Moorish officials, who refused, without valid cause, to allow the necessary notarial documents to be drawn up.

I transmit herewith a copy of the new regulations as published in the "Bulletin officiel," with corrections to make it an accurate translation of the copy in Arabic sent by Sid Guebbas to the doyen.* We cannot, I think, accept these regulations in their present form, as they contain several objectionable features. They will require careful study and discussion by the diplomatic body.

* Corrected Regulations.

I need not at this stage trouble you with a detailed criticism of all the provisions of the regulations; I would, however, draw attention to the list of "*biens inaliénables*," which claims for the Makhzen some properties which may well be owned by private persons, such as ponds, springs, lands left uncultivated, or whose owners may have left the country, or have died leaving heirs who have delayed taking possession, "*djich*" lands, minerals. The proposed procedure for the sale of land would doubtless render transfers a long and costly business, any one of the several officials to be consulted having it in his power to block the sale. An example of this I shall cite below. Article 60 of the Act of Algeciras extends the right to purchase land without requiring the previous consent of the Makhzen to all lands within the 10 kilom. radius of all ports open to trade, the obvious intention being that this provision should also apply to all ports subsequently opened to trade. Mehedia having been opened, there are now nine ports, but the regulation specifically mentions eight ports, the desire being probably to restrict the provisions of this article to the eight ports that were open in 1906.

The procedure laid down for assessing the value of properties to be expropriated is manifestly unfair to the owner as, should the arbitrators disagree on the choice of an umpire, which would always be the case unless the umpire proposed by the Makhzen arbitrator were accepted, it is the Makhzen itself who will name the umpire. The obvious arrangement would have been to apply to all cases the expropriation regulations drawn up under the Act of Algeciras.

The Makhzen have put these new regulations in force as regards foreigners and protégés without waiting for the consent of the diplomatic body; questions have consequently already arisen, and doubtless numerous complaints will be received at the various legations.

I beg leave to transmit herewith copy of a letter addressed to His Majesty's consul at Casa Blanca by Messrs. Murdoch, Butler and Co., relative to a difficulty they have experienced in connection with the purchase of land at Rabat,* owing to the authorities insisting on inserting in the deed of conveyance a clause reserving to the Makhzen the right at any time to buy a piece or the whole of the land at current price. This appears to go farther even than the provisions of the regulations which empower the Makhzen to acquire properties only where necessary for public works. As pointed out by Messrs. Murdoch, Butler and Co., the point is covered by article 113 of the Algeciras Act. It is not necessary to insert in deeds of conveyance a clause which substitutes for the expropriation procedure provided by that Act one that is entirely to the advantage of the Makhzen and which may contain other pitfalls.

Difficulties have arisen also at Tangier in regard to the transfer of lands by British subjects. The *cadi* pronounced the title-deeds in order, but the administrator of Government properties, in his reply to the governor, whilst admitting that the properties in question do not figure on the list of Government lands, stated that all the "*Fahs*" or Tangier district is "*djich*," and therefore belongs to the Makhzen. The *cadi* consequently refused to authorise the sale, and the question is still under discussion. The effect of the Makhzen claim, that all lands in "*djich*" districts belong to the Makhzen, would be that the whole of the properties outside the walls of Tangier, which have been bought and sold with Makhzen consent from time immemorial, would revert to the Makhzen. An excellent thing doubtless for the revenues of the future municipality, but absolutely inadmissible. It is not of course for the benefit of Tangier that this claim has been put forward; it is the "*djich*" lands in the French zone that the French authorities have in view.

I have, &c.

HERBERT E. WHITE.

Note.—"Djich" are a kind of yeomanry who hold Government land in return for military service. These lands remain in the family, passing from father to son.

H. E. W.

[623]

No. 4.

Sir Edward Grey to Sir F. Bertie.

(No. 17.)

Sir,

Foreign Office, January 8, 1913.

ON the 18th ultimo I addressed to your Excellency my despatch No. 606 calling attention to the issue of a Shereefian decree imposing a servitude on certain lands

* Messrs. Murdoch, Butler and Co. to Consul Madien, December 24, 1912.

near fortified towns in Morocco, and requesting you to inform the French Government that until His Majesty's Government had definitely recognised the French protectorate in Morocco they were unable to admit that the decree was either applicable to or binding on British subjects in Morocco.

I now transmit to your Excellency herewith a despatch from His Majesty's Chargé d'Affaires at Tangier enclosing the text of another Shereefian decree relative to the acquisition of land by foreigners in Morocco. You will see from Mr. White's despatch that there are grave objections to the decree, and that Messrs. Murdoch, Butler and Co. at Casa Blanca are already experiencing difficulties in connection therewith.

I request that your Excellency will inform the French Government that for the same reasons and on the same grounds as in the case of the decree imposing servitudes on certain lands, His Majesty's Government are unable to admit that the Shereefian firman in question is at present either applicable to or binding on British subjects in Morocco. You should at the same time call attention to the hardship to which Messrs. Murdoch, Butler are being exposed, and urge the French Government to use their influence with the Makhzen with a view to grant the legitimate application of the firm.

I am, &c.
E. GREY.

[1372]

No. 5.

M. Cambon to Sir Edward Grey.—(Received January 10.)

*Ambassade de France, Londres,
le 8 janvier, 1913.*

M. le Secrétaire d'Etat,

CONFORMEMENT aux instructions que je viens de recevoir de mon Gouvernement, j'ai l'honneur de transmettre à votre Excellence le texte ci-joint du traité de protectorat franco-marocain qui a été signé à Fez, le 30 mars, 1912, et d'exprimer l'espoir que le Gouvernement britannique adhèrera à cet accord.

L'article 6 de cette convention stipule que "les agents diplomatiques et consulaires de France sont chargés de la représentation et de la protection des sujets et des intérêts marocains à l'étranger." Une restriction est apportée à cette disposition par l'article 23 du traité franco-espagnol précédemment communiqué à votre Excellence, qui place sous la protection des agents diplomatiques et consulaires de l'Espagne les sujets marocains originaires de la zone d'influence espagnole.

Veuillez, &c.
PAUL CAMBON.

Enclosure in No. 5.

Franco-Moroccan Treaty, signed March 30, 1912.

LE Gouvernement de la République française et le Gouvernement de Sa Majesté chérifienne, soucieux d'établir au Maroc un régime régulier, fondé sur l'ordre intérieur et la sécurité générale, qui permette l'introduction des réformes et assure le développement économique du pays, sont convenus des dispositions suivantes :—

ARTICLE 1^{er}.

Le Gouvernement de la République française et Sa Majesté le Sultan sont d'accord pour instituer au Maroc un nouveau régime comportant les réformes administratives, judiciaires, scolaires, économiques, financières et militaires que le Gouvernement français jugera utile d'introduire sur le territoire marocain.

Ce régime sauvegardera la situation religieuse, le respect et le prestige traditionnel du Sultan, l'exercice de la religion musulmane et des institutions religieuses, notamment de celle des habous. Il comportera l'organisation d'un Makhzen chérifien réformé.

Le Gouvernement de la République se concertera avec le Gouvernement espagnol au sujet des intérêts que ce Gouvernement tient de sa position géographique et de ses possessions territoriales sur la côte marocaine.

De même, la ville de Tanger gardera le caractère spécial qui lui a été reconnu et qui déterminera son organisation municipale.

ARTICLE 2.

Sa Majesté le Sultan admet dès maintenant que le Gouvernement français procède, après avoir prévenu le Makhzen, aux occupations militaires du territoire marocain qu'il jugerait nécessaires au maintien de l'ordre et de la sécurité des transactions commerciales et à ce qu'il exerce toute action de police sur terre et dans les eaux marocaines.

ARTICLE 3.

Le Gouvernement de la République prend l'engagement de prêter un constant appui à Sa Majesté chérifienne contre tout danger qui menacerait sa personne ou son trône ou qui compromettrait la tranquillité de ses Etats. Le même appui sera prêté à l'héritier du trône et à ses successeurs.

ARTICLE 4.

Les mesures que nécessitera le nouveau régime du protectorat seront édictées, sur la proposition du Gouvernement français, par Sa Majesté chérifienne ou par les autorités auxquelles elle en aura délégué le pouvoir. Il en sera de même des règlements nouveaux et des modifications aux règlements existants.

ARTICLE 5.

Le Gouvernement français sera représenté auprès de Sa Majesté chérifienne par un Commissaire résident général, dépositaire de tous les pouvoirs de la République au Maroc, qui veillera à l'exécution du présent accord.

Le Commissaire résident général sera le seul intermédiaire du Sultan auprès des représentants étrangers et dans les rapports que ces représentants entretiennent avec le Gouvernement marocain. Il sera, notamment, chargé de toutes les questions intéressant les étrangers dans l'Empire chérifien.

Il aura le pouvoir d'approuver et de promulguer, au nom du Gouvernement français, tous les décrets rendus par Sa Majesté chérifienne.

ARTICLE 6.

Les agents diplomatiques et consulaires de la France seront chargés de la représentation et de la protection des sujets et des intérêts marocains à l'étranger.

Sa Majesté le Sultan s'engage à ne conclure aucun acte ayant un caractère international sans l'assentiment préalable du Gouvernement de la République française.

ARTICLE 7.

Le Gouvernement de la République française et le Gouvernement de Sa Majesté chérifienne se réservent de fixer d'un commun accord les bases d'une réorganisation financière qui, en respectant les droits conférés aux porteurs des titres des emprunts publics marocains, permette de garantir les engagements du Trésor chérifien et de percevoir régulièrement les revenus de l'Empire.

ARTICLE 8.

Sa Majesté chérifienne s'interdit de contracter, à l'avenir, directement ou indirectement, aucun emprunt public ou privé et d'accorder, sous une forme quelconque, aucune concession sans l'autorisation du Gouvernement français.

ARTICLE 9.

La présente convention sera soumise à la ratification du Gouvernement de la République française et l'instrument de ladite ratification sera remis à Sa Majesté le Sultan dans le plus bref délai possible.

En foi de quoi les soussignés ont dressé le présent acte et l'ont revêtu de leurs cachets.

Fait à Fez, le 30 mars, 1912 (11 rabiâh, 1330).

REGNAULT.
MOULAY-ABD-EL-HAFID.

[1480]

No. 6.

Mr. White to Sir Edward Grey.—(Received January 11.)

(No. 9.)

Sir,

Tangier, January 5, 1913.

I HAVE the honour to transmit herewith copy of a despatch from His Majesty's consul at Fez reporting that he had been informed by the head of the military engineer service that the military railway line from Casa Blanca to Fez by Rabat and Mequinez is being actively pushed forward and will presumably be completed as far as Darel Hamri in a few months time.

This line is of course at present a purely military one, but it can at any time be converted into a commercial line; in any case the construction of the commercial railway will be very greatly facilitated thereby when time comes for its construction, and though the Tangier-Fez railway must, under the terms of the Franco-German Convention, be the first put up to tender, there is, I think, every probability that the Casa Blanca-Rabat-Mequinez-Fez line will be the first railway completed.

In the meantime the Spaniards are engaged in constructing a military railway from Larache to Alcazar, and the French contemplate the construction of other military lines. By the time the various "military lines" are completed there will, I fear, remain but few commercial lines to be constructed by contract after adjudication.

I have, &c.

HERBERT E. WHITE.

Enclosure in No. 6.

Consul MacLeod to Mr. White.

(No. 145.)

Sir,

Fez, December 30, 1912.

I HAVE the honour to state that Colonel Caloni, head of the military engineer service, in the course of private conversation during his visit to Fez, these days made the following remarks about the French military railway from Casa Blanca to Mequinez and Fez:—

This line is now in work from Casa Blanca to Rabat, i.e., some 56 miles. The journey by it takes nine hours inclusive of one hour for lunch, so that the speed would appear to be seven miles an hour.

The Rabat-Mehedia, Mehedia-Kanitra, and Kanitra-Dar-bel-Hamri sections are in course of construction.

The materials for these sections have been brought as far as Kanitra, some twelve miles up the Sebou, by deep sea steamers of 1,200 tons.

The line is to skirt the Mamara forest to Dar-bel-Hamri. The construction of this section presents no difficulties, owing to the country being level and the soil hard and gravelly.

From Dar-bel-Hamri to Mequinez the construction would be slower, first by reason of the Wad Beht, and next by the hilly nature of the country as far as Mequinez.

From Mequinez the line will be prolonged to Fez, and it was expected that it would be complete to Fez within twelve months from now.

It was estimated that the journey between Fez and Rabat would take two days, the railway not working at night.

The line would be used for military purposes exclusively, but Colonel Caloni supposed that passes would be allowed to official persons desiring to travel by it.

Presuming that the line will be complete to Dar-bel-Hamri in a very few months, i.e., some 55 miles from Fez, and in view of the fact that the road through Sherarda and over Zegota has now been made fit for wheeled traffic, Fez should be, within six months or so, within two days' travel in all weathers from Rabat, or, at any rate, from Mehedia.

I have, &c.

J. M. MACLEOD.

[1914]

No. 7.

Sir F. Bertie to Sir Edward Grey.—(Received January 14.)

(No. 14.)

Sir,

Paris, January 13, 1913.

I HAVE the honour to transmit to you herewith copy of a note from the Minister for Foreign Affairs, replying to the one which I addressed to him on the 4th January in the terms approved by your despatch No. 633 of the 31st ultimo in regard to the future position of the British missionaries in Morocco.

The French Government renew their assurance that the British missions will continue to enjoy the same liberty in respect of worship and charitable work as heretofore.

As regards educational work, the French Government, while consenting to the maintenance of existing schools, are not able to give any undertaking in regard to the opening of new educational establishments.

I have, &c.

FRANCIS BERTIE.

Enclosure in No. 7.

M. Poincaré to Sir F. Bertie.

M. l'Ambassadeur,

Paris, le 10 janvier, 1913.

PAR une note du 4 de ce mois, votre Excellence a bien voulu me faire savoir que le Principal Secrétaire d'État aux Affaires Étrangères demeurerait convaincu qu'ainsi que ma note du 31 octobre dernier en donnait l'assurance, les missions anglaises au Maroc continueront d'y jouir pour l'exercice du culte et de la bienfaisance des mêmes libertés que par le passé.

Le Gouvernement de la république est heureux de renouveler cette assurance au Gouvernement de Sa Majesté.

En ce qui concerne les œuvres scolaires, je dois faire remarquer à votre Excellence que l'article 8, paragraphe 2, de la récente convention franco-espagnole, qu'elle a bien voulu elle-même citer, n'a trait qu'à l'exercice du culte et que, si le Gouvernement français admet volontiers le maintien des écoles actuellement existantes, il ne peut prendre aucun engagement quant à l'ouverture de nouveaux établissements d'enseignement.

Agréez, &c.

R. POINCARÉ.

[2614]

No. 8.

Mr. White to Sir Edward Grey.—(Received January 18.)

(No. 18.)

Sir,

Tangier, January 11, 1913.

WITH reference to Mr. Kennard's despatch No. 305 of the 12th ultimo, I have the honour to report that the Makhzen have replied to the President of the Adjudications Commission that they are unable to agree to the proposed waterworks at Tangier being paid for out of the funds of the "Caisse spéciale," giving as the reason for their refusal that these works cannot properly be considered public works undertaken for the development of navigation and trade generally, to which, under the terms of article 66 of the Algeiras Act, the funds in question must be applied. This is, of course, true to a great extent, though it may be argued that a good water supply is necessary for ships visiting the port, and that the works could therefore be considered beneficial to navigation; moreover, it has not hitherto been the custom to interpret article 66 so strictly, many public works having been charged to its funds which were very remotely, if at all, for the benefit of trade and navigation. One need not go further than the recently approved Tangier road scheme to find an example.

The real reason for the refusal of the French authorities to sanction the grant is to be sought elsewhere. They are naturally not desirous of spending at Tangier funds which they prefer to keep for public works in their own zone, and they are not favourably disposed towards a scheme adopted in opposition to the original one they put forward in the hope of obtaining an important concession for a French company

and establishing the control of the Public Works Department over these works, thus increasing their influence in the French zone.

The only course now open is to let the waterworks question stand over until it can be dealt with by the municipality. The fact that the diplomatic body approved the amended scheme, and that it was the Makhzen who threw it out will make it more difficult for the French press to work up public opinion against the diplomatic body.

I have, &c.

HERBERT E. WHITE.

[2764]

No. 9.

Sir Edward Grey to Sir M. de Bunsen.

(No. 5. Very Confidential.)

Sir,

Foreign Office, January 20, 1913.

THE Spanish Ambassador called at the Foreign Office on the 15th instant, and stated that the French Ministry for Foreign Affairs were trying to influence the Spanish Government, through indirect channels, not to support the British views respecting Tangier. The French argument was that France had made a great mistake in agreeing to the internationalisation of Tangier, and that it would be to the Spanish as well as to the French interest to render that agreement harmless. The French Government proposed to let the negotiations drop for the present, so that in the meantime French rights and interests in Tangier, which were identical with those of Spain, could be firmly established and safeguarded.

The Ambassador also mentioned a remark recently made by General Lyautey in Paris, to the effect that France could never allow friendly relations to grow up between the French and Spanish protectorates in Morocco. Spanish rights were an absolute hindrance to France, and the only proper and straightforward way to settle the question was "de se battre en gentilshommes." France would beat Spain, make the latter accept the French terms, and then on this basis conclude a lasting friendship with her.

I am, &c.

E. GREY.

[1372]

No. 10.

Sir Edward Grey to M. Cambon.

Your Excellency,

Foreign Office, January 20, 1913.

I HAVE the honour to acknowledge the receipt of the note which your Excellency was good enough to address to me on the 8th instant, enclosing a copy of the Franco-Moorish Treaty of March 1912, and requesting the adherence of His Majesty's Government thereto.

Your Excellency will remember that His Majesty's Government made the conclusion of a satisfactory arrangement for the internationalisation of Tangier one of the conditions of their adherence to the Franco-German Convention of November 1911 and consequently to its corollary, the establishment of a French protectorate in Morocco. To their great regret no such arrangement about Tangier has yet been reached; on the contrary, the attitude which the French Government have recently adopted in the matter has been most disappointing. There are, moreover, some other questions, such as the fraudulent sale of Makhzen lands in the Tangier district and the transit trade through Algeria, which it would be highly desirable to settle before the definite introduction of the new order of things.

In these circumstances His Majesty's Government do not think that the moment has come for giving their formal recognition to the establishment of a French protectorate.

I would take this opportunity to remind your Excellency that as long ago as the 3rd February, 1912, His Majesty's Ambassador at Paris by my instructions explained to M. Poincaré the view of His Majesty's Government, that the refusal of any one of the Powers signatories to the Act of Algéciras to recognise the French protectorate in Morocco rendered inoperative, as regards the other Powers, the departure from the

[3480]

No. 11*.

Note communicated by M. Cambon, January 23, 1913.

L'AGENT diplomatique de France au Caire a signalé au Ministère des Affaires Etrangères de la république les démarches faites par les Marocains résidant en Égypte afin d'obtenir leur inscription sur les registres des ressortissants français.

Ces sujets marocains ont commencé à solliciter la protection française dès l'époque à laquelle la France a occupé les régions de la Chaouïa et d'Oudjda. Le Ministre de la république au Caire a érudé leurs requêtes, le Gouvernement français n'ayant pas alors de titre à exercer cette protection. Mais les sollicitations des Marocains sont devenues beaucoup plus nombreuses et pressantes depuis que la France a conclu avec le Sultan du Maroc un traité de protectorat et assumé la charge de protéger les sujets chérifiens établis à l'étranger.

A l'heure actuelle, les Marocains résidant en Égypte sont placés dans une situation de droit analogue à celle où se trouvaient les Tunisiens avant l'établissement du protectorat français sur la Régence de Tunis. Soumis au droit commun, ils ont cependant la faculté d'avoir un "wekil," désigné par le Sultan de Fez et chargé de soutenir leurs intérêts auprès des autorités locales. Ils ont usé de cette faculté jusqu'à une époque relativement récente: leur dernier "wekil" est décédé il y a cinq ans. Le Sultan du Maroc ne lui ayant pas désigné de successeur, les Marocains ont alors choisi eux-mêmes un de leurs notables qui agissait en qualité de mandataire officieux. Ce représentant vient de mourir.

Telle est la situation qui a amené les Marocains d'Égypte à renouveler leurs instances auprès de l'agent diplomatique de France et à se prévaloir de l'engagement que le Gouvernement français a pris envers le Sultan de Fez.

Le Gouvernement de la république est désireux de donner satisfaction à ces demandes en ce qui concerne les Marocains originaires de la zone française. Son représentant au Caire est en droit d'assumer leur protection conformément au traité de protectorat franco-marocain. Toutefois, M. Poincaré serait heureux de savoir si Sir Edward Grey n'aurait pas d'objection à ce que les Marocains originaires de la zone française fussent dès maintenant admis à s'inscrire sur les registres de protection des consulats de France en Égypte.

M. Paul Cambon saisit, &c.

*Ambassade de France, Londres,
le 22 janvier, 1913.*

[1613]

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principle of the preamble of the Act involved by the acceptance of the protectorate by the Sultan. His Majesty's Government still uphold this view, and they must therefore maintain that until such recognition has been given by all the signatory Powers, the existing conventional rights and privileges of foreign Governments and subjects in Morocco, including that of direct diplomatic correspondence with the Makhzen and the exemption from the operation of Sherrefian decrees, such as those recently issued imposing a servitude on certain lands near fortified towns, and enacting new conditions in regard to the purchase of real estate, remain intact and unimpaired.

I have, &c.

E. GREY.

[3255]

No. 11.

Mr. White to Sir Edward Grey.—(Received January 21.)

(No. 4.)

(Telegraphic.) R.

Tangier, January 21, 1913.

GERMAN Minister tells me that on the 4th January French Ambassador addressed a note to German Minister for Foreign Affairs communicating Franco-Moorish Protectorate Treaty, and asked for adherence of German Government, drawing special attention to article providing for communication with Makhzen being through French officials. German Government replied through their Ambassador in Paris that they had no objection to make to clauses of that treaty.

Under instructions from his Government German Minister has to-day communicated above reply to Moorish Government and to German consuls. He does not understand exact meaning of step taken by his Government, and, on being asked by French chargé d'affaires whether he would now enter into official relations with resident-general, he replied that he could not do so without further instructions.

[3869]

No. 12.

Sir Edward Grey to Sir F. Bertie.

(No. 57.)

Sir,

Foreign Office, January 23, 1913.

M. CAMBON spoke to me to-day about our memorandum respecting Morocco. He said that it intimated that we could not recognise the French protectorate over Morocco till all other Powers had done so. He thought that it would not be reasonable that we should refuse to recognise the protectorate simply because of the holding out of some Power which might not be so "lié" with France about Morocco as we were.

I understood him to mean that it was not in accordance with our obligations that we should regard ourselves as necessarily the last Power to recognise the protectorate.

I said that there was force in this, and I would refer again to the memorandum. On the other hand, I pointed out that we must have an agreement about Tangier before we could recognise the protectorate.

M. Cambon asked that, in sending the memorandum to Paris, he should be able to say that I had told him that we would recognise the French protectorate when an agreement had been come to about Tangier. The question of Tangier had, he said, come to a deadlock because our ideas and those of the French about administration were different, and in Paris the question had got into the hands of a person who looked at it solely from the point of view of French ideas of administration, and who had not diplomatic feeling or experience. M. Cambon suggested that he should send for this individual, and bring him to discuss the matter here, when M. Cambon was sure that in an hour our point of view could be explained.

I said that a settlement of the question would have been arrived at, and indeed practically was arrived at, in Madrid, when the matter was in the hands of M. Guiot, whose ideas were in the same plane as ours. Then it was taken out of his hands, and we feared that the ideas, or at any rate the practical working, of the scheme now proposed by France would, as a result of the position given to the French element and the Moorish element, which under the new conditions would be at the disposal of France, lead not to a true internationalisation, but rather to a frankification of Tangier.

[1613]

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M. Cambon said that there must be internationalisation, and repeated his suggestion of sending for the expert to discuss the question here.

I told him that I was not familiar with the details, but would let him have an answer to-morrow about the recognition of the protectorate and the bringing of the expert here.

I am, &c.
E. GREY.

[3721]

No. 13.

Mr. White to Sir Edward Grey.—(Received January 25.)

(No. 28.)

Sir,

Tangier, January 17, 1913.

I HAVE the honour to transmit herewith translation of a letter addressed by Sid Guebbas to the doyen of the corps diplomatique, informing him that the Sultan had given orders to the administrators of the "habous" or "wakf" to make out a list of all such properties that have changed hands, and to prevent the holders from disposing of them in any way whatever until the circumstances of the transfer have been examined. Sid Guebbas asks that foreigners be invited to conform to the procedure to be adopted in this matter by the basha.

Shereefian orders to the above effect reached the administrators of the "habous" some time since, and action has already been taken on them in the case of unprotected natives, but foreigners who hold such properties have not yet been interfered with.

The question of "habous" is a difficult and complicated one and will give much trouble when the corps diplomatique comes to deal with it under article 63 of the Algeciras Act, foreigners having important interests involved as the "key rights," or practically leaseholds, of such properties have often been purchased for considerable sums. The new Shereefian orders will depreciate the value of these properties, and I do not see by what right a British subject who has obtained possession of such properties by lawful means can be prevented from selling them should he desire to do so. The Makhzen have avoided a proper discussion of the matter by failing to appoint a special commissioner as provided in the Algeciras Act. They now appear to desire to deal with the matter themselves without previous discussion with the corps diplomatique.

The German Minister, in his annotation on the doyen's circular, stated that the question appeared to him to be intimately connected with the observations made by the Shereefian delegates at the Algeciras Conference, where it was arranged that a solution should be found by agreement between the diplomatic body and a special commissioner to be appointed by the Sultan.

The French chargé d'affaires said he would invite his nationals to conform to the procedure to be adopted.

I expressed my concurrence with the views of the German Minister, and observed that I did not see how we could detract from the rights of our nationals who may hold "habous" properties until a settlement had been arrived at in accordance with article 63 of the Algeciras Act.

I have, &c.
HERBERT E. WHITE.

Enclosure in No. 13.

Sid Guebbas to M. Rappard.

Louange à Dieu!

(Traduction.)
Compliments d'usage.

NOUS avons l'honneur de porter à votre connaissance que Sa Majesté chérifienne a été informée des mutations qu'ont subies dans les dernières années les biens "habous" par voie d'échange ou autrement. Sa Majesté a jugé nécessaire de s'en préoccuper et de faire le nécessaire pour récupérer ce que les "habous" ont perdu par suite de ces mutations. Le gouverneur de cette ville a reçu des ordres de se faire remettre par les deux administrateurs des biens "habous" une liste de ces mutations faites par voie d'échange ou autrement et d'empêcher les détenteurs de les aliéner sous n'importe

quelle forme en tout ou en partie jusqu'à l'examen des motifs qui ont entraîné ces mutations aura lieu, parce qu'il s'agit du bien d'Allah, qu'on ne peut négliger ni passer sous silence. Nous avons reçu également des ordres chérifiens de porter ce qui précède à la connaissance de l'honorable corps diplomatique, dont vous faites partie, pour que vous en preniez note et invitiez vos ressortissants à se conformer à la procédure que le gouverneur suivra, d'après les ordres qu'il a reçus pour obtenir le but poursuivi par cet ordre et qu'il réalise l'intention de Sa Majesté chérifienne de s'occuper de cette question religieuse.

Salut!

MOHAMMED-BEN-MOHAMMED-EL-GUEBBAS.

Tanger, le 25 moharrem, 1331 (4 janvier, 1913).

[4169]

No. 14.

Sir F. Bertie to Sir Edward Grey.—(Received January 28.)

(No. 39.)

Sir,

Paris, January 26, 1913.

I HAVE the honour to transmit to you herewith copies of the communication which I addressed to M. Poincaré on the 23rd instant, in accordance with the instructions contained in your despatch No. 606 of the 18th December, relative to a Shereefian decree imposing a servitude on lands round the fortifications of certain towns in the French sphere in Morocco, and of the reply which I have received from M. Jonnart.

His Excellency explains the reasons which prompted the French resident-general to move the Sultan to issue the decree in question, and defends his action in so doing.

M. Jonnart adds that the interdiction contained in that decree is of a temporary character and will be raised as soon as the pacification of the country permits it.

I have, &c.

FRANCIS BERTIE.

Enclosure I in No. 14.

Note communicated to M. Poincaré by Sir F. Bertie.

HIS Majesty's Ambassador has received instructions from Sir Edward Grey to call the attention of his Excellency the Minister for Foreign Affairs to a Shereefian decree imposing a servitude on lands within a fixed zone round the fortifications of certain towns in the French sphere in Morocco.

Sir Francis Bertie has been directed by Sir Edward Grey to communicate to M. Poincaré the text of a despatch to His Majesty's chargé d'affaires at Tangier with regard to the question, and, while thus bringing to his Excellency's notice the attitude which His Majesty's Government feel it their duty to adopt in regard to the firman in question, to remind him that, as Sir Francis Bertie had the honour to state to his Excellency on the 3rd February last, the Algeciras Act must be held to remain operative and binding until all the signatory Powers have agreed to abrogate it or to modify it in whole or in part.

His Majesty's Government consider that, until the conditions on which His Majesty's Government adhered to the Franco-German convention of 1911 have been fulfilled, and until the French protectorate has been definitely recognised by them, the rights which British subjects enjoy under the Algeciras Act, the Spanish treaty of 1861, and the Madrid convention of 1880 remain unimpaired. His Majesty's Government, therefore, cannot admit that the recent Shereefian firman is at present applicable to or binding on British subjects in Morocco.

Paris, December 23, 1912.

Enclosure 2 in No. 14.

M. Jonnart to Sir F. Bertie.

M. l'Ambassadeur,

Paris, le 20 janvier, 1913.

VOTRE Excellence a bien voulu, par sa note du 23 décembre dernier, faire parvenir au département une copie de la lettre adressée le 18 du même mois par Sir Edward Grey au chargé d'affaires britannique à Tanger, au sujet du firman chérifien établissant autour des places fortifiées du Maroc une zone de servitude militaire.

J'ai eu communication du texte de ce firman, tel qu'il a été publié au "Journal officiel" marocain, et j'ai reçu du résident général de France des explications détaillées, qui m'ont paru convaincantes, sur l'utilité de cette mesure. C'est, en effet, sur l'initiative du Général Lyautey qu'elle a été prise à la suite des soulèvements indigènes dont le Maroc a été le théâtre au cours de l'année dernière et de circonstances d'ordre militaire qui l'ont vivement frappé.

Dans sa lettre à Mr. White, le Secrétaire d'État aux Affaires Étrangères britannique paraît considérer les murailles des places comme dénuées de toute valeur défensive. C'est là une appréciation qui ne correspond pas à la réalité. Sans doute, ces murailles constitueraient une défense dérisoire en Europe contre des engins modernes et, notamment, contre le canon, mais elles forment une enceinte continue parfaitement défendable contre l'action des fusils et précieuse en cas de soulèvement ou même d'agitation.

Sans l'abri de ces murailles, la ville de Fez eût été envahie et pillée par les tribus révoltées en avril 1911 et mai 1912, ce qui eût entraîné un massacre des colonies étrangères. Plus récemment, lorsque l'on put craindre que le mouvement du Prétendant Hiba ne s'étendit vers le nord, le Général Lyautey n'eut guère d'appréhension pour la plupart des villes de la côte où subsistait une enceinte continue, aux abords dégagés, pouvant servir de réduit aussi bien à la population européenne qu'aux indigènes fidèles et aux garnisons. Le résident général lut, par contre, frappé de la difficulté de mettre à l'abri d'une insulte la ville de Casablanca, où la zone militaire n'a pas été respectée et c'est à la suite de cette constatation que le Sultan s'est vu sollicité de rendre le firman en question. Aussi l'exemple de Casablanca ne doit-il pas être retenu pour justifier la liberté de construire dans le voisinage immédiat des fortifications; il y a là, au contraire, une situation fort regrettable, antérieure au firman, et qu'il importait de ne pas laisser se généraliser.

Quant à l'assertion contenue dans la lettre de Sir Edward Grey que cette mesure apparaît comme un prétexte pour permettre au Makhzen d'entrer en possession de beaucoup de terrains de valeur, elle ne saurait être évidemment maintenue par le Principal Secrétaire d'État des Affaires Étrangères. Elle résulte au surplus d'une erreur d'information: la propriété des terrains, en effet, n'a pas été et ne pouvait être contestée à ceux qui s'en sont rendus légitimement acquéreurs.

On conçoit le regret de certains colons de ne pouvoir utiliser au mieux de leurs intérêts particuliers tel ou tel terrain, mais le point de vue de l'autorité responsable de leur sécurité ne saurait être affecté par cette considération, les intérêts particuliers, quelque intéressants qu'ils puissent être, devant s'effacer devant l'intérêt collectif des colonies étrangères.

C'est en vue de ce but exclusif de sûreté que le firman du 8 novembre a été pris. Il semble, d'ailleurs, qu'il assure aux particuliers le maximum de garanties compatibles avec le résultat à atteindre. Il y est dit, en effet, que "lorsqu'il ne peut en résulter aucun préjudice pour la défense et que les intérêts locaux le réclament, la zone de servitude peut être réduite. De même, il peut être créé dans l'étendue de la zone des polygones à l'intérieur desquels sont tolérés, suivant les conditions déterminées, l'exécution des bâtiments, clôtures et autres ouvrages, et l'exploitation des carrières ou mines, quand ces travaux ne sont pas de nature à nuire à la défense."

Le firman porte encore:—

"Les constructions préexistantes, c'est-à-dire celles édifiées antérieurement à l'époque de l'établissement des servitudes dont elles sont grevées, peuvent être restaurées et reconstruites également après déclaration au représentant local du Makhzen sous la double restriction qu'il ne sera fait aucune augmentation à leurs dimensions extérieures et que les matériaux de réparation et de construction seront les mêmes que ceux précédemment mis en œuvre. . . ."

Il ressort de ce texte que toutes les constructions déjà existantes dans la zone de servitude continueront à être utilisées par leurs propriétaires. Si certains colons peuvent

donc regretter le "manque à gagner" qu'ils avaient escompté, aucun d'eux ne peut faire état d'un dommage subi. J'ajoute enfin qu'il ne s'agit ici que d'une interdiction temporaire et qui sera levée dès que la pacification du pays le permettra. Je ne doute pas que le Gouvernement de Sa Majesté n'admette, après avoir pris connaissance des renseignements qui précèdent, que le firman dont il s'agit ait concilié dans la mesure du possible les intérêts particuliers et la défense des intérêts collectifs des différentes colonies européennes au Maroc.

Agréé, &c.

JONNART.

[4733]

No. 15.

Sir Edward Grey to Mr. White.

(No. 4.)

(Telegraphic.) *En clair.*

Foreign Office, January 30, 1913.

TANGIER Municipality.

M. Dupeyrat has come here to discuss with Sir Eyre Crowe possibility of an agreement on principles which should form basis of instructions to delegates at conference to be shortly resumed at Madrid.

Principal preoccupations of French Government are, firstly, maintenance of prestige and nominal sovereignty of Sultan in same way as in French and Spanish protectorates, and outward respect for feelings of natives, without, however, allowing them real power; and, secondly, grave apprehension they sincerely entertain as to allowing at once too extended powers to an untried elective body composed of elements of doubtful efficiency and stability. After much discussion M. Dupeyrat has agreed that extensive powers of municipality are inevitably bound up with its quasi-sovereign position. He is willing to seek a solution by accentuating authority of Committee of Control as against that of Municipal Council. From this general point of view compromises have been tentatively discussed in following directions:—

Municipal Council.—According to French figures native electors, including protected persons, would under franchise agreed upon number 1,058, as against 858 Europeans. Jews and Mussulmans divide native vote nearly equally, whilst French would number 379, Spaniards 296, British 98, Germans 29. Under system of election by "scrutin de liste," the native majority would alone decide the election, not only of their own but of all the European members, who would in fact be absolutely dependent on native votes. I have agreed that this is undesirable, and there seems to me to be force in the argument that election of Europeans ought preponderantly to depend on European votes. Although I realise that this gives an advantage to more numerous element of French and Spaniards, this is largely counterbalanced by maximum limit of four members for any one nationality.

France holds absolutely to establishment of three separate electorates for above reasons. If we will accept this, she will be prepared reluctantly to drop proposal for separate Chambers, although still strongly favouring separate sittings and voting on budget. Compromise would be to enlarge council to 32 or 36 members, of whom 4 would be Mussulman and 4 Jews. I think this deserves serious consideration.

Principal Executive Officer.—Compromise suggested is that, whilst the officer is distinctly the subordinate of the municipality and his only functions are to carry out its orders, he should be elected, not by the council but by the Committee of Control, preferably, but not necessarily from outside of the council.

Moorish Officials.—Our views concerning the Khalifa are accepted, but he should be named Honorary President of the Committee of Control, the actual chairman, however, being the diplomatic doyen, cadis and nadis to be nominated by the Khalifa subject to approval of Committee of Control, under whose general supervision they would exercise their functions.

Revenue.—Great difficulty is made as to waiving war indemnity, but I believe France will eventually give way if she is met on other points.

Public Works.—France strongly urges retention, at least provisionally, of existing Public Works Department, whose functions would also remain in both French and Spanish protectorates under guarantees of "Caisse spéciale" regulations. For purposes of works in each zone the department would be distinctly under the direction of the superior local authority, that is to say, in Tangier, under the municipality, who also control the annual budget. Existing staff have contracts till end of 1914, and enjoy

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large salaries. Their abolition would entail heavy expense, and would involve also loss of much preparatory work already done. I think we should be able to arrive at a compromise on this question.

Judicial Arrangements.—French Government insist on starting with a complete organisation. If the three Powers can now agree upon an acceptable system, there would be every chance of its being accepted by other treaty Powers as part of the general scheme. If not, negotiations will be protracted and difficult. French hope to introduce their own reforms in French protectorate before long. If it is practicable to arrive at an understanding on this difficult problem at once, I have no objection, and I propose to have the French proposals examined into without delay.

As M. Dupeyrat awaits here settlement of provisional understanding, I should be glad to receive your observations on above suggestions at your earliest convenience.

I trust you can arrange for resuming discussion at Madrid in due course. If you could without great inconvenience eventually come here before proceeding to Madrid, fuller explanations could be given respecting present discussions with M. Dupeyrat, and an opportunity found for going into greater detail as regards judicial questions, which would probably be useful.

[3721]

No. 16.

Sir Edward Grey to Mr. White.

(No. 32.)

Sir,

Foreign Office, January 31, 1913.

I HAVE received your despatch No. 28 of the 17th instant relative to the transfer of harbour properties, and I approve your annotation on the circular from the doyen of the diplomatic body enclosing a letter on the subject from Sid Guebbas.

It is very desirable that the question of these properties should be settled as soon as possible, and I request that you will urge upon your colleagues the desirability of approaching the Makhzen without delay with a view to the immediate appointment of a special commissioner as provided by article 63 of the Algeiras Act.

I am, &c.

E. GREY.

[5099]

No. 17.

Mr. White to Sir Edward Grey.—(Received February 2.)

(No. 9.)

(Telegraphic.) R.

Tangier, February 2, 1913.

YOUR telegram No. 4 of 30th January: Tangier Internationalisation.

Municipal Council: For reasons explained in memorandum by bag leaving to-morrow, I still prefer one electorate, but I recognise that we will have to accept French proposal. I trust that we will obtain good *quid pro quo*. We should stipulate for one member nominated by each representative, and limitation of three for elected members of one nation; this will limit Moorish members to four Mussulmans and three Jews, whereas, if the limitation is four including nominated member, there would be four Jews. Jews will probably be francophil. I would suggest enlargement of council to thirty-five.

Principal executive officer: I agree.

Moorish officials: I agree, except that I should prefer that khalifa should not be honorary president; he should have no higher position in respect to other representatives than khalifa in Spanish zone in respect to High Commissioner.

Revenue: I trust war indemnity will be waived in consideration of great concession as to electorate.

Public Works: Present staff must of necessity continue for a time, but I should like, if possible, to leave Municipal Council or Committee of Control an absolutely free hand. President of "Caisse spéciale" assures me "caisse" has made no contracts for any term. Any work prepared by existing staff whilst in pay of "caisse" must surely remain for Tangier even if change is made. Chief engineer is generally at Paris, and is not available when required for consultation here, his excuse being that he is also technical adviser to Moorish Government. Municipality will require

[3480]

No. 16*.

Sir Edward Grey to Viscount Kitchener.

(No. 17.)

My Lord,

Foreign Office, January 30, 1913.

I TRANSMIT to your Lordship herewith, for any observations that you may have to offer, copy of a memorandum communicated to me by the French Ambassador respecting the position of Moroccan subjects in Egypt.†

I should, in particular, be glad to learn the approximate number of these persons resident in Egypt, and the legal status of this category of individuals. I also request your Lordship to inform me whether Moroccan subjects in Egypt have any practical grievance under the present system.

If and when the French protectorate over Morocco is recognised by this country, France would naturally acquire the right of protecting Moroccan subjects in foreign countries; but such recognition is being at present withheld, until the negotiations now pending with the French Government respecting the establishment of an autonomous international municipality at Tangier shall have reached a satisfactory conclusion.

I am, &c.

E. GREY.

[1613]

† No. 11.*

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engineer for other works not connected with "Caisse spéciale," and should not have to incur expense of two separate departments.

Judicial arrangements: I fear delay, otherwise it would be advantageous to start with complete organisation.

Can you await receipt of full memorandum by bag before taking definite decision?

[5099]

No. 18.

Proposed Bases of Instructions to be given to British Delegate on Madrid Commission.

Tangier.

1. *Committee of Control.*—The position and attributes of the committee should be generally strengthened as against those of the Municipal Council.

2. *Municipal Council.*—There should be such an organisation of the electoral system as to ensure that the European members are elected by the European votes. With this view, separate electorates should be established for (1) the Europeans; (2) the Mussulmans; (3) the Jews. The council might be composed of thirty-five members, of whom twelve would be nominated and twenty-three elected. Of the elected members not more than three should belong to any one nationality.

(This would give to the natives seven seats altogether on the council, namely: one nominated and three elected Mussulmans, and three elected Jews.)

The council should sit and vote together in one chamber.

3. *Executive.*—The chief executive officer should be nominated by the Committee of Control, and chosen by them preferably from outside the Municipal Council.

4. *Moorish Officials.*—The Sultan's Khalifa to enjoy the position of honorary president of the Committee of Control, the actual chairman, however, being the doyen of the foreign representatives. The nadis and cadis to be appointed by the Khalifa, subject to the approval of the Committee of Control, under whose general supervision these Moorish officials should exercise their functions. Suitable provision should be made for terminating the appointment of any such official who may be found to be unsatisfactory.

5. *Public Works.*—The existing department of public works to be provisionally continued, subject to the adjustment of details, and provided the effective control over all public works and their execution passes into the hands of the municipality as soon as it is established, it being understood that the municipality remains free in future to make its own arrangements.

6. *Finance.*—The yield of the 2½ per cent. surtax at Tangier to fall to the municipality. The French Government to waive the payment of the annuities for the discharge of the war indemnity. The municipality to be given the option of repaying the portion of the existing French loans secured on the customs and other public revenues in the Tangier district, at the first opportunity when such repayment is allowed under the loan agreements.

7. *Judiciary.*—A judicial organisation to be set up on the analogy, generally, of the system at present in force in Egypt.

8. *Right of Expulsion.*—Arrangements to be desired for permitting and regulating the expulsion of undesirable persons.

Foreign Office, February 3, 1913.

[5731]

No. 19.

Note communicated by M. Cambon, February 4, 1913.

PRINCIPES destinés à servir de bases au statut de Tanger:—

1. *Commission de Contrôle.*—Augmenter son rôle par rapport à l'assemblée municipale.

2. *Assemblée municipale.*—Elle consistera en un conseil unique et sera élue par des collègues électoraux séparés (immigrés, musulmans, israélites); il semble que les musulmans et les israélites puissent être représentés par quatre conseillers de chaque catégorie; la Commission mixte décidera de l'application de ces principes.

3. *Pouvoir exécutif*.—L'administrateur sera nommé par la Commission de Contrôle; il semble qu'il doive être choisi hors de l'assemblée municipale.

4. Le khalifa du Sultan sera président d'honneur de la Commission de Contrôle; le président effectif de cette commission sera le doyen des représentants des Puissances.

Le nadir et le cadi seront nommés par le khalifa et agréés par la Commission de Contrôle; ils exerceront leurs fonctions sous la surveillance de la Commission de Contrôle. Ils pourront être révoqués dans des conditions à fixer par la Commission mixte.

5. *Service des Travaux publics*.—Il semble que des raisons d'ordre pratique conseillent le maintien du *statu quo*.

6. *Ressources de Tanger*.—Taxes locales, 2½ pour cent.
Peut-être les arrérages de l'indemnité de guerre.

7. *Régime judiciaire*.—S'inspirer de l'Égypte.

Ambassade de France, Londres,
le 4 février, 1913.

[5099]

No. 20.

Sir Edward Grey to Sir M. de Bunsen.

(No. 12.)

Sir,

Foreign Office, February 5, 1913.

I AM happy to be able to inform your Excellency that a considerable step forward has been made in the negotiations with the French Government relative to the establishment of an international municipality at Tangier, and there is good reason to hope that the discussions at Madrid which were broken off last July may shortly be resumed.

Instead of sending a formal reply to the British memorandum of the 18th November last (see "Morocco" Print, section 1, of the 18th November), the French Government dispatched M. Dupeyrat, of the French Ministry for Foreign Affairs, to London to discuss the matter personally at the Foreign Office. The result of these discussions is embodied in a memorandum of the "proposed bases of instructions to be given to the British delegate on the Madrid commission," a copy of which I transmit to your Excellency herewith.* The French Government will no doubt concur therein, and there will then be no obstacle to the resumption of the negotiations at Madrid.

I should be glad if your Excellency would inform the Spanish Minister for Foreign Affairs confidentially of the substance of this despatch and enclosure. The whole matter has already been fully explained to the Spanish Ambassador at this court.

I am, &c.
E. GREY.

[6041]

No. 21.

Sir M. de Bunsen to Sir Edward Grey.—(Received February 8.)

(No. 20.)

Sir,

Madrid, February 1, 1913.

I HAD the honour to receive by Foreign Office bag on the 30th January your very confidential despatch No. 5 of the 20th January on the subject of statements lately made at the Foreign Office by the Spanish Ambassador concerning the attitude of the French Government towards questions arising out of the recent Morocco settlement. Desiring to make sure that the Spanish Government still shared the views of His Majesty's Government as to the best means of securing the true internationalisation of Tangier, I asked the Minister of State at his weekly reception yesterday whether this question was still engaging his attention. Señor Navarro Reverter replied that it was, and that he was anxiously awaiting the moment when, as the result of the pressure which you were continuing to exert upon the French Minister for Foreign Affairs the interrupted conversations between the three experts would be allowed to be resumed at Madrid. His Excellency assured me that the

* No. 18.

Spanish Government would refuse to accept any settlement giving undue preponderance to the French element in Tangier. They were of opinion that this danger could only be avoided by the institution of a new régime on the lines laid down by His Majesty's Government. He added that even if England and Spain were prepared to accept the scheme put forward by France, there was every probability that Germany and perhaps others among the signatory Powers of the Act of Algeciras would refuse to be bound thereby. Something must therefore be devised which would give satisfaction all round. I may mention in this connection that the German Ambassador has more than once asked me of late how the Tangier discussions were proceeding. He has no doubt put the same questions to Señor Navarro Reverter.

I also mentioned to his Excellency that General Liautey was believed to have indulged lately in bellicose language as regards relations between France and Spain in Morocco. The story mentioned in your despatch reached my ears some time ago, having been brought to Madrid by Colonel Echaguey (aide-de-camp to King Alfonso), to whom General Liautey seems to have spoken in the sense of the words attributed to him by Señor Villa Urrutia. Señor Navarro Reverter did not believe that the General could have intended his words to have been taken seriously. There could be no war between France and Spain over Morocco. Rather than hold the Spanish zone under a constant menace of attack the Minister of State would personally much prefer to give it up altogether. It would be at best an unprofitable venture for Spain, from an economic point of view, and if it had to be defended constantly at the point of the sword the effort would not be worth making. On the other hand, he remarked that, weak as Spain was, it would be unwise of France to attack her, for the interests of other Powers would be involved and France might easily find that she had kindled an European conflagration. He hoped the debate which was about to be opened in the French Chambers would give occasion for authoritative declarations of a very different character from those ascribed to General Liautey. But however this might be, the Spanish Government were resolved to give France no pretext for adopting an unfriendly attitude towards Spain. He informed me that he had given positive instructions that petty local incidents were not to be allowed to develop into international quarrels, and all Spanish agents in Morocco would now understand that disputes between Spaniards and Frenchmen must be settled if possible on the spot by friendly agreement with the agents of France, and without allowing them to assume the proportions of diplomatic incidents.

M. Vieugué, French chargé d'affaires, tells me he is well satisfied with the Minister of State's assurances on this point, and that a practical instance of the latter's good-will has been afforded by the instructions sent, as M. Vieugué is informed, to the Spanish vice-consul at Saffi, to the effect that a quarrel which had arisen out of the arrest of a drunken Spanish protégé at that port was to be arranged in such a way as to give satisfaction to the French officials concerned.

I have, &c.
MAURICE DE BUNSEN.

[5998]

No. 22.

Mr. White to Sir Edward Grey.—(Received February 8.)

(No. 51. Very Confidential.)

Sir,

Tangier, February 1, 1913.

WITH reference to your Very Confidential despatch No. 5 to His Majesty's Ambassador at Madrid of the 20th instant, I have the honour to inform you that amongst other steps that are being taken up by the French Government to consolidate their position at Tangier is the recent appointment of new police instructors in the place of those whose contracts have expired.

In the memorandum transmitted to M. Cambon in your note of the 23rd September the proposal is made that the municipality should in the first instance take over the police as they stand, appointing a chief of police from among the subjects of a minor Power, and that, as vacancies occur among the officers, the chief of police should recommend candidates of any nationality he may think fit to the municipality, who would endorse or reject his recommendations. In the memorandum transmitted by M. Cambon, in reply, on the 18th October, the French Government accept this proposal as a basis for discussion.

[1613]

F

In order to ensure there being no vacancies amongst the French officers for some time to come the French Government have proceeded to make new appointments.

I took an opportunity this morning to enquire of the Spanish Minister whether fresh contracts had recently been made with the police officers. He told me that when the original contracts of these officers had expired, at the end of the term of five years, it had been decided to extend the contracts for a period of three months, and that this system had been continued ever since. At all the ports in the French zone the police had now been abolished, the various police forces being converted into auxiliary military forces of the army of occupation. The French Government had desired the Spanish Government to adopt the same procedure at Tetuan and Larache, but they had refused, insisting on maintaining the forces as police paid by the Makhzen until they took over the administration of their zone; they would not saddle themselves with the expense of maintaining the police until they received the revenues of their zone. With regard to the police at Tangier, the Spanish officers remained on the same terms as before, the term of their contracts being extended as necessary for further periods of three months at a time.

M. de Villasinda said he had been surprised to learn the appointment of new French police officers, especially as these officers had told their Spanish colleagues that their appointments were definite, and that they had hired houses for a term of five years! He had reported the matter to his Government, but had not yet heard from them in reply.

The action of the French Government in this matter is in keeping with the general line of policy they are following at Tangier. It appears to me, however, that the municipality will not be in any way bound by any contract the French may have caused the Makhzen to enter into with these French officers, and the question arises whether, in the forthcoming reopening of the negotiations at Madrid, some definite understanding should not be come to on the subject.

I have, &c.

HERBERT E. WHITE.

[6000]

No. 23.

Mr. White to Sir Edward Grey.—(Received February 8.)

(No. 53.)
Sir,

Tangier, February 1, 1913.

I HAVE the honour to transmit herewith translation of a letter I have received from Sid Guebbas, communicating the French and Arabic text of the Franco-Moorish protectorate treaty of the 30th March last. His Excellency has addressed the other foreign representatives in the same terms.

The Spanish Minister called upon me to enquire what reply I proposed to make to this communication. I told him that I should apply for instructions, but that personally I was of opinion that the only reply I could make was to acknowledge receipt and say that the treaty in question could not come into operation, so far as we were concerned, until His Majesty's Government had formally and unconditionally adhered to it and to the Franco-German convention and all the other Powers signatory to the Algeciras Act had done the same. I subsequently communicated to M. de Villasinda the substance of your note to the ~~the~~ French Ambassador of the 20th ~~instant~~ *ultimo*.

M. de Villasinda informed me that he had transmitted Sid Guebbas' note to His Government, and was awaiting instructions. His personal opinion was that the Spanish Government could not allow the protectorate treaty to become operative until effect had been given to all the provisions of the Franco-Spanish agreement.

I subsequently saw the French chargé d'affaires, and enquired the reason for the step taken by Sid Guebbas, the French Government having already itself communicated the treaty to the various Powers. I presumed he was aware of the reply returned to that communication by His Majesty's Government, and it could hardly be expected that I would make a reply to Sid Guebbas of a more satisfactory nature from their point of view.

M. de Billy said that some Governments had unreservedly adhered to the protectorate treaty, and it was expected that most of the Powers would adhere to the treaty, which would at once come into operation so far as they were concerned. He had no knowledge of the reply of His Majesty's Government on this subject, and could not understand our stiffness about the Tangier question. We had obtained guarantees

that the northern coast of Morocco would not be fortified, and that such fortifications as existed at Tangier would be dismantled—what more did we want? Why should we desire a preponderating influence here? Gibraltar was near, it was true, but so were Spain and Algeria. He could not understand our now putting obstacles in their way, when it was to our interest that the country should be pacified and security restored as soon as possible.

I read to M. de Billy your above-mentioned note to M. Cambon of the 20th instant, from which, I said, he would clearly understand the position of His Majesty's Government. I said that he was quite mistaken in supposing that we desired a preponderating influence at Tangier—nothing was further from our thoughts; we were well aware that, with the large Spanish and French colonies at Tangier, British preponderance would be unattainable, even had we desired it; all we wanted was true internationalisation without the preponderance of any one Power. He was also under an entire misapprehension in thinking that we had any desire to thwart the action of France in restoring order in this country; on the contrary, we were anxious for her success. It was not necessary for me to refer to our action in the past, as he himself was well aware how we had stood by them and assisted them; we were still assisting them as far as possible in this respect, as shown in various instances which I cited. Whilst, however, we ourselves stood by all our engagements under the agreement of 1904, we were bound to see that in commercial and economic matters the interests of British subjects should not suffer.

M. de Billy observed that we need have no fears in that respect. British trade had increased in Morocco, and we had only to look to Algeria and the French colonies to be assured that our trade in Morocco would be secure under the French protectorate and at Tangier with French predominance.

I replied that I regretted that I could not share his optimism in this respect. British trade in Algeria could not possibly compete with that of France, and as for French colonies our experiences in Madagascar were not encouraging. But coming nearer home what did we find? His Government had engaged to put British trade with Morocco across the Algerian frontier on a footing of equality with that of France, and yet, owing to an agitation on the part of Algerian traders, His Majesty's Government had up to the present time been unable to obtain the fulfilment of this engagement. In economic matters also our experience in Morocco had not been satisfactory, and he could not be surprised that we should take every step to secure equality of treatment in commercial and economic matters at Tangier—a port presumably with a great future—by obtaining true internationalisation.

The conversation was carried on in the most friendly tone, as I am on the best of terms with M. de Billy, who, in the end, admitted the justice of my remarks, and confessed that in our place he would have adopted the same line as we have done.

I beg leave to transmit herewith translation of the note I am addressing to Sid Guebbas in accordance with the instructions in your telegram No. 5, this moment received.

I have, &c.

HERBERT E. WHITE.

Enclosure 1 in No. 23.

Sid Guebbas to Mr. White.

(After compliments.)

January 30, 1913.

BY instructions from the Shereefian Makhzen your Excellency will receive herewith two copies in Arabic and in French of the agreement arranged between the Shereefian Maghreb Government and the Government of the French Republic, dated the 11th Rabea II, 1330, equivalent to the 30th March, 1912.

I trust your Excellency will acknowledge its receipt.

MOHAMMED-BEN-MOHAMMED-EL-GUEBBAS.

Tangier, 21st Safar, 1331 (January 30, 1913).

Enclosure 2 in No. 23.

Mr. White to Sid Guebbas.

(After compliments.)

Tangier, February 1, 1913.

I HAVE the honour to acknowledge receipt of your Excellency's note of the 30th ultimo (21st Safar) transmitting copies in Arabic and French of an agreement between the Governments of France and Morocco, dated the 30th March, 1912 (11th Rabea II, 1330), and I have to inform your Excellency that this agreement will not become operative as regards Great Britain until His Majesty's Government shall have signified their formal adherence thereto.

HERBERT E. WHITE.

[6003]

No. 24.

Mr. White to Sir Edward Grey.—(Received February 8.)

(No. 56.)

Sir,

Tangier, February 2, 1913.

WITH reference to your telegram No. 4 of the 30th ultimo, I have the honour to transmit herewith a memorandum embodying my views as to the suggested compromises with the French Government on the points still at issue in regard to the Tangier municipality.

I called upon the Spanish Minister yesterday evening and informed him that the reply of the French Government to your last memorandum had now been received, and that they still maintain a firm attitude as to having three separate electorates.

I said that it appeared to me that if we did not give way on this point there would be danger of a deadlock, or at any rate the negotiations might be prolonged indefinitely. Before, however, expressing to you an opinion, I was anxious to learn his views, as I knew His Majesty's Government were desirous of working in complete harmony with that of Spain in this matter. I begged him, however, to regard our conversation as strictly confidential, as I did not wish it to be known that I had consulted him.

M. de Villasinda, whom I consider to be absolutely trustworthy, promised to keep silence on the subject. He said that he could only express his own personal views, but was glad to discuss the matter with me. After examining the question from every point of view M. de Villasinda agreed with me that, with the number of elected members of each nationality limited to three and with a municipal council of at least thirty-two, the three electorates might be accepted, as the French would be in a minority even with the Mussulman, Jewish, and Russian votes.

I also mentioned the questions of the position of the Sultan's representative and of the immediate establishment of a judicial organisation so as to admit of the abolition of protection, and on both these points M. de Villasinda concurred with me.

As stated above, however, the views expressed by the Spanish Minister were purely personal, and cannot be taken as necessarily representing those of the Spanish Government. I venture, therefore, to suggest that it may be advisable not to come to any definite agreement with the French Government on these points, which would completely tie my hands when the negotiations are resumed at Madrid. It may perhaps be possible, whilst concurring generally, to express unwillingness to come to a definite decision without consulting Spain, and to leave the points open for discussion between the three delegates at Madrid.

I have, &c.

HERBERT E. WHITE.

Enclosure in No. 24.

Memorandum by Mr. White.

I ENTIRELY concur in the general principles enunciated by M. Dupeyrat, i.e. :—

1. Maintenance of prestige and nominal sovereignty of Sultan in the same way as in the French and Spanish protectorates ;
2. Outward respect for the feelings of the natives without, however, allowing them real power ; and

3. Complete authority of the Committee of Control over the Municipal Council and, I would add, over all Moorish officials that may be appointed.

I recognise the necessity of effecting a compromise with the French Government, as it is most important to arrive at a solution of this difficult question as soon as possible. We cannot, I suppose, expect the French Government to fall in with our views on all points, so there must be a certain amount of give and take. It is necessary, therefore, to reconsider the points at issue with a view to discovering how far we can meet the French views without too far jeopardising the international character of the organisation at Tangier. It is in this spirit that I offer the following observations :—

Municipal Council.

I enclose statistics, obtained from the administration of the urban tax, showing the relative strength of various nations in the electorate ; these statistics are evidently those quoted by M. Dupeyrat. I am not in a position to verify the accuracy of the figures ; as regards Great Britain they are certainly incorrect, as there are not forty-one native Jews here under British protection. It is evident that a number of British subjects of Gibraltar are entered as protégés, as the number of protégés under this head should, I believe, be only twelve. The number of British subjects who will be electors probably exceeds 120.

Personally, I do not fear the Moorish Mussulmans as electors in a single electorate ; they are more likely to be pro-English than pro-French. It is the Moorish municipal councillor that will be dangerous, unless he is assured that he has nothing to hope or fear from the Moorish officials. It is easy for the French, through the native officials, to bring strong pressure to bear on the Moorish councillors individually, but it is not so easy for them to influence the large body of electors. However, if the judicial arrangements are completed and the natives are removed from the power of Moorish officials, I have less fear on this score, and the spirit of independence shown by the native municipal councillors at Fez is distinctly encouraging.

With the Jews the case is somewhat different ; they speak Spanish it is true, and many of them have Spanish sympathies, but the schools of the Alliance Israélite have had a considerable effect on them, and they now all speak French, and are coming to a great extent under French influence.

Looking at the question from the point of view of our own interests exclusively, I should prefer a preponderance of Moorish voters in the election of Europeans to a preponderance of French voters. Excluding the native element from the electorate, the French and Spanish voters, if they choose to combine (and on the Commission d'Hygiène elections they have done so) could elect whom they wish to the council, putting in nonentities instead of strong men as representatives of other nations or else persons of nations having no interests, e.g., Brazilian and Argentine Jews of Moorish origin.

In all the circumstances I am still of opinion that a single electorate is preferable ; I feel, however, that we will have to give way on this point and accept the three separate electorates. If we do, I hope it will be done as a great concession in exchange for an equally important concession on the part of France. In any case I think we should stipulate that each Power represented at Tangier should nominate one member of its nationality, and that at the elections not more than three councillors can be elected of any one nationality. This is not quite the same as limiting the number of councillors of one nationality to four. The Sultan's representative will presumably select a Mussulman as nominated member ; thus only three Mussulmans will remain to be elected, but four Jews can be elected ; thus there would be eight Moorish subjects on the council as against four of each other nationality. With the modification I suggest there would be one nominated and three elected Mussulmans and only three elected Jews, making seven Moorish subjects in all. This, I think, is important, and the French should accept, as the Jewish element is certain to be represented amongst the elected European councillors. It must be borne in mind that we will be abandoning our standpoint that in an international body no one nation, not even Morocco, should be entitled to more members than the other nations ; to allow the Moors seven members as against the four of other nations is a great concession, and I do not think France can ask more.

As to the number of members on the Municipal Council, there should be at least thirty-three, if it is desired that France and Spain with support of Moorish element and Russia should not have a majority. We might suggest thirty-five ; an odd number does away with the necessity for a casting vote.

[1613]

G

Principal Executive Officer.

I see no objection to this proposal.

Moorish Officials.

On this point, also, I agree, except that I see no reason for naming the Sultan's representative honorary president of the Committee of Control, and thus assuming that he occupies a higher position than the representatives of other Powers. I presume the Khalifa in the Spanish zone will not take precedence of the Spanish High Commissioner, and it seems to me that it is only logical that the Khalifa in the international zone should be in the same position as his colleague in the Spanish zone. The point is, perhaps, not of great importance, except that, like the increase in the number of Moorish members on the council, it tends to admit a Moorish preponderance and is contrary to the principle of the equality of all nations in the international zone.

Revenue.

I trust pressure will be brought to bear on France to induce her to waive the war indemnity in consideration of the concessions we are making.

Public Works.

I do not think we should bind ourselves in any way as regards the Public Works Department. Ali Zaky, who is president of the Caisse spéciale Commission, assures me that the Caisse has made no contracts for any term with the staff of that department. M. Porché is scarcely ever at Tangier, and the Dutch Minister was complaining bitterly of this the other day. The Caisse pays M. Porché, but he spends most of his time at Paris, without even asking leave of the foreign representatives to absent himself, and when it is desired to consult him he is not at hand. M. de Rappard once made an observation on this, and he was informed that M. Porché was also technical adviser to the Makhzen, and had to attend to those duties.

The Public Works Department will undoubtedly have to be retained for a time, but I think it should be clearly understood that the Municipal Council or the Committee of Control must be left free to make such arrangements as may be thought most advantageous, due notice being given if any change of staff is contemplated. Any preparatory work the present department may have done for Tangier whilst in the pay of the Caisse spéciale must, of course, remain in the office for the benefit of the new engineer if a change is made.

The municipality will require a resident technical adviser for questions of public works, &c., and it will have to undertake works not connected with the Caisse spéciale. The most convenient as well as the most economical plan would be to have its own Public Works Department to deal with all works whether under Caisse spéciale or not. Otherwise it will have not only to pay its share of expenses of the Caisse spéciale Public Works Department, whose services it will only get when not required elsewhere, but will also have to support another Public Works Department of its own.

It is, I feel sure, merely on political grounds that the French Government wish to maintain the existing department, which is practically a French institution, and I see no necessity for engaging the municipality in this respect. Should it, however, be decided to retain M. Porché and his staff, I presume Tangier would pay as its share of the large salaries they enjoy the same proportion as the Tangier receipts bear to the total receipts.

Judicial Arrangements.

If an acceptable system can be devised without too much loss of time, it would be advantageous to adopt it at once. The matter, however, requires most careful study in consultation with legal authorities who have had Egyptian experience, and I fear delay must ensue.

H. E. W.

Tangier, February 2, 1913.

NOMBRE d'Occupants, soit comme Propriétaires, soit comme Locataires, d'Immeubles dont les Loyers sont de 40 pesetas hassani par mois ou au-dessus.

Nationalité.	Nationaux.	Protégés.	
		Musulmans.	Hébreux.
Indigènes non protégés—			
Musulmans	378	..	..
Israélites	257	..	..
Français	379	65	55
Espagnols	296	13	87
Anglais	98	14	41
Allemands	29	16	19
Italiens	28	4	31
Portugais	9	..	38
Américains	6	5	18
Néerlandais	3	..	7
Austro-Hongrois	6	..	3
Belges	2	2	3
Russes	2	..	1
Autres nationalités et sociétés internationales	4	..	1
Totaux	1,497	119	304

[6015]

No. 25.

Sir F. Bertie to Sir Edward Grey.—(Received February 8.)

(No. 64.)

Sir,

Paris, February 7, 1913.

I HAVE the honour to report that a statement appears in to-day's "Journal officiel" to the effect that by a decree dated 15th January last the French Legation at Tangier is abolished. An agency and a consulate-general have been created at Tangier. M. Chevandier de Valdrôme (secrétaire d'ambassade de première classe à Tanger) has been appointed to the new post.

I have, &c.

FRANCIS BERTIE.

[6477]

No. 26.

Sir F. Bertie to Sir Edward Grey.—(Received February 11.)

[By Post.]

(No. 24.)

(Telegraphic.) *En clair.*

Paris, February 10, 1913.

THE Minister for Foreign Affairs sent for me this evening. He said that the declaration of Admiral Tirpitz in the Reichstag had created a certain amount of nervousness in the lobbies of the Chambers and in public opinion, and the delay in the recognition by England of the French protectorate over Morocco had added to this feeling, which was being made the most of by M. Clemenceau out of hostility to M. Poincaré.

M. Jonnart had, he said, stated to those who had spoken to him on the subject of the British attitude in regard to Morocco that His Majesty's Government had made their recognition of the French protectorate subject to a settlement of the question of Tangier, which was in a fair way of arrangement, but could not be concluded until the commission about to reassemble at Madrid had drawn up regulations for the administration of Tangier and district for approval by the Governments of France, England, and Spain. He had been reminded that, whereas England delayed, Germany had unconditionally recognised the French protectorate.

M. Jonnart would like to be able to give assurances in the lobbies that the recognition by England depends solely on the settlement of the question of Tangier, and that as soon as an agreement has been arrived at on that subject His Majesty's Government will at once recognise the French protectorate. If he could give such an assurance on your authority the agitation would cease.

[6477]

No. 27.

Sir Edward Grey to Sir F. Bertie.

(No. 64.)

(Telegraphic.)

Foreign Office, February 11, 1913.

YOUR telegram No. 24 of 10th February.

We have no objection to its being stated that His Majesty's Government have promised to recognise the French as well as the Spanish protectorates as soon as the agreement for an international régime at Tangier has been concluded.

(Confidential.)

Naval expenditure has not even been mentioned between British and German Governments since death of Baron Marschall. Declaration of Admiral Tirpitz, though welcome, was quite unexpected by us, and we know no more of it than has appeared in the press; but this should be for information of Minister for Foreign Affairs only, and not for use in the lobbies.

[6722]

No. 28.

Sir F. Bertie to Sir Edward Grey.—(Received February 12.)

(No. 76.)

Sir,

Paris, February 11, 1913.

M. JONNART sent word to me that he would like to see me yesterday evening. He told me that in the lobbies of the Senate and the Chamber there was some nervousness and anxiety with regard to the declaration made in the German Reichstag by Admiral Tirpitz which seemed to some Senators and Deputies to denote the possibility of an Anglo-German agreement, the effect of which would be to reduce German naval expenditure and enable the German Government to augment their military forces without much additional taxation. This feeling of nervousness had been increased by reports, encouraged chiefly by M. Clemenceau, who was very hostile to M. Poincaré's Morocco policy, that His Majesty's Government were withholding their recognition of the French protectorate over that country for unavowed reasons, and in this connection attention had been called to the speedy and unconditional German recognition. The feeling had to a certain degree extended to the press and the public. He had assured the Senators and Deputies who had spoken to him on the two subjects that he was not aware of any negotiations between England and Germany detrimental to French interests, and that as regarded Morocco His Majesty's Government had made their recognition of the French protectorate conditional on a satisfactory agreement to regulate the administration of Tangier and its surrounding district. The negotiations for that purpose were making satisfactory progress and the commission of French, British, and Spanish delegates would, he expected, shortly reassemble at Madrid in order to elaborate a scheme for the approval of the French, British, and Spanish Governments. M. Jonnart said that he did not intend to accept an interpellation on the subject of a Franco-British negotiation, but he would like to be able to state in the lobbies, on your authority, that as soon as the question of Tangier had been settled His Majesty's Government would recognise the French protectorate.

I told M. Jonnart that I would report to you his enquiry, and I observed, in regard to the speedy and unconditional recognition by Germany of the French protectorate, that the German Government no doubt felt confident that the British Government in insisting on the internationalisation of Tangier would, by so doing, practically secure German interests there. The speedy and unconditional recognition was therefore a cheap *geste*. There had been considerable delay in the Anglo-French negotiations in a great measure due to the fact that M. Poincaré had been much

occupied by other business; and the bureaux, as (I was sorry to have to say) was their custom, had been endeavouring to recover what had already been given away by the French Government in accordance with the agreements of 1904.

M. Jonnart said that he could assure me that the whole object of the French Government was to secure sound administration of Tangier by well-considered regulations. Their experiences in Algeria and Tunis enabled them to be particularly good judges of what would really be suitable for Tangier as an international city.

In regard to the declaration made in the Reichstag by Admiral Tirpitz, I had, I said to M. Jonnart, no information as to any understanding between the British and German Governments, but to judge from the press comments in Germany and England it did not seem likely to have much practical effect, for the German press advocated the inclusion in any 16-10 scale of all Dreadnoughts furnished by British colonies, whereas in England the newspapers held that they should be considered additional to the 16-10 ratio.

I have, &c.

FRANCIS BERTIE.

[6920]

No. 29.

Sir M. de Bunsen to Sir Edward Grey.—(Received February 13.)

(No. 22.)

Sir,

Madrid, February 10, 1913.

A FEW days ago the German Ambassador told me his attention had been called by the German Government to a recent newspaper statement, which his Excellency had not himself observed, to the effect that the French and Spanish Governments were negotiating an agreement to introduce certain modifications into the text of the draft Morocco mining regulations, drawn up by the British, French, German, and Spanish delegates who met at Paris in 1911. Prince Ratibor was instructed to make enquiries. On doing so he had been informed at the Ministry of State that it was quite true that the two Governments were conferring on the subject of the mining regulations, his Serene Highness said that he had so informed the German Government, who were of opinion that the matter should be closely watched, as it seemed to them highly irregular that France and Spain should seek to settle by themselves questions which were of equal interest to other important Powers.

I have since asked Señor Hontoria, the able Under-Secretary of State at the Spanish Foreign Office, if he could tell me how the matter stood. He said the information given to Prince Ratibor was quite correct. Señor de los Villares, a Spanish delegate at the Paris conference, was now in Paris discussing the whole question with a representative of the French Government. The two Governments were agreed to adopt in great part the draft regulations as they stood. On some points they would probably make a few amendments by common consent. As the two Morocco zones were about to be taken over and administered by France and Spain, it had seemed natural to arrange for the issue of a definite and identical regulation regarding mines, and the work of the Paris conference happily afforded a convenient framework.

I asked Señor Hontoria whether he considered that France and Spain had a right to draw up regulations differing on some points from the text agreed upon by the four most interested Powers, and intended by the latter to be converted eventually into a formal regulation for the whole of Morocco. Señor Hontoria had no doubt that, when the Franco-Spanish Morocco Convention was ratified, France and Spain could make, within the limits permitted by the Franco-German Morocco agreement, independent regulations in their respective zones on this subject as well as on all others, excepting customs, telegraphs and other matters expressly excepted in the convention from this general right. He thought the mining regulations would issue from the present discussion *à deux* in a form which would raise no serious objection in any quarter.

I was myself under the impression that the draft mining regulations represented an agreement to which, when it should have secured the concurrence of the remaining Algeiras Powers, France and Spain would be at least morally bound to give effect in their respective zones, I do not propose, however, without instructions to discuss the point with the Minister of State.

I may mention that in a report drawn up by the Conde de Albiz, legal adviser to the British mining syndicate which has been formed to take over certain mines in northern Morocco, it is stated that the draft Paris regulations framed by representatives

of France, Spain, Germany, and England would probably not be unfavourable to the claims of the syndicate: and the report adds that should those draft regulations be amended, this would probably be done, as regarded the Spanish zone, by introducing portions of the Spanish mining laws, and the claims of the syndicate would not be prejudiced thereby, but rather to the contrary, inasmuch as Señor Pastor, whose right the British syndicate intended to purchase, had put in his claim in a form consistent with Spanish law. I am therefore not sure whether, from the point of view of purely British interests, there is any particular reason to dispute the assertion by Spain of a right to amend the draft regulations. From the language, however, of Prince Ratibor on the subject, I am led to expect that Germany would strongly object to independent modifications of the Paris draft, which was drawn up, if I rightly remember, to suit, as far as the non-German delegates would permit, the extensive claim of the Mannesmann brothers.

I have, &c.

MAURICE DE BUNSEN.

[7131]

No. 30.

M. Cambon to Sir Edward Grey.—(Received February 14.)

*Ambassade de France, Londres,
le 11 février, 1913.*

M. le Secrétaire d'État,

JE n'avais pas manqué de transmettre à M. le Ministre des Affaires Étrangères de la république la note que votre Excellence a bien voulu me faire parvenir, à la date du 3 de ce mois, pour définir les bases des instructions à donner aux délégués de Grande-Bretagne et de France à la commission mixte chargée d'élaborer à Madrid le statut international de Tanger.

M. Jonnart vient de me faire savoir qu'il est entièrement d'accord avec votre Excellence sur les bases définies dans cette note, et m'a chargé de constater officiellement cet accord.

Il m'a prié en même temps de bien préciser sa pensée sur les points suivants:—

Dès l'instant que la division du corps électoral en trois collèges est admise, M. Jonnart considère que le nombre des sièges à attribuer aux musulmans et aux israélites n'est plus qu'une affaire d'application. Il souhaiterait donc que sur ce point, comme la d'ailleurs suggéré à Londres M. Dupeyrat, la commission de Madrid ne fût pas gênée par des instructions trop précises. Peut-être cette commission jugera-t-elle désirable d'accentuer encore quelque peu la différence que le Foreign Office a judicieusement estimé opportun de marquer entre les parts faites aux deux éléments indigènes. Il est probable en effet qu'un certain nombre d'israélites immigrés seront envoyés au conseil municipal par les électeurs colons. Ce seront sans doute des Européens, mais attachés à leur communauté confessionnelle par la religion, les relations de famille et les liens d'intérêts. Les musulmans, au contraire, n'auront d'autres représentants que ceux qui leur auront été spécialement attribués. Dans ces conditions, M. Jonnart désirerait que la commission de Madrid fût laissée libre d'apprécier s'il ne conviendrait pas de porter à trente-huit l'effectif total de l'assemblée, afin de pouvoir concéder cinq sièges aux musulmans et trois aux israélites indigènes, sans déséquilibrer l'importance relative des divers groupes au sein de l'assemblée municipale.

M. Jonnart n'a pas d'objection de principe en ce qui concerne le paragraphe 6 de la note du Foreign Office relatif aux finances. Il croit simplement devoir faire observer que, pour pouvoir réaliser la conversion des emprunts, à laquelle le Gouvernement de la république est tout disposé à se prêter à la date la plus rapprochée, il faut cependant que les conditions du marché en 1922 et 1926 soient favorables.

Les instructions données au délégué français, qui a reçu l'ordre de se tenir prêt à partir pour Madrid, seront rédigées conformément à la note du Foreign Office. Le Ministre des Affaires Étrangères de la république m'a prié de m'informer de la date à laquelle le délégué britannique pourra se trouver à Madrid pour la reprise des travaux de la commission.

Veillez, &c.

PAUL CAMBON.

[7049]

No. 31.

Sir F. Bertie to Sir Edward Grey.—(Received February 14.)

(No. 80.)

Sir,

Paris, February 13, 1913.

I HAVE the honour to inform you, with reference to your telegram No. 64 of the 11th instant, that I saw M. Jonnart yesterday evening, and, having told him that I had reported to you the conversation with his Excellency on the 10th instant as to the recognition of the French protectorate in Morocco by His Majesty's Government, informed him that I had been authorised by you to state that: His Majesty's Government have no objection to its being stated that they have promised to recognise the French as well as the Spanish protectorates in Morocco as soon as an agreement as to the internationalisation of Tangier has been arrived at.

I added that I hoped his Excellency would bear in mind the fact that you had given a favourable consideration to the wishes expressed by him as to this question, in the transit trade, Tunis cotton goods and Muscat arms traffic negotiation and in the question of the illicit sales of Makhzen lands in and about Tangier.

I have, &c.

FRANCIS BERTIE.

[7259]

No. 32.

Mr. White to Sir Edward Grey.—(Received February 15.)

No. 62.)

Sir,

Tangier, February 7, 1913.

WITH reference to my despatch No. 23 of the 11th ultimo, I have the honour to report that a Havas telegram having been received at Tangier reporting, as official, the suppression of the French Legation and the creation of an agency and consulate-general in its place. I enquired of the French chargé d'affaires whether he had received any intimation to that effect from the Quai d'Orsay. M. de Billy replied that he had not himself received any official communication on the subject but that he had no doubt that the statement was official. M. de Valdrôme would arrive here very shortly and take up his appointment; he would thus be the first agent and consul-general to be appointed at Tangier.

The Spanish Minister spoke to me on the subject this morning. He is much upset at this move on the part of the French Government, whose object is clearly to obtain for their representative the position of doyen, which will considerably increase the influence he will be able to exert at Tangier.

M. de Villasinda told me he had reported to his Government on the subject as he considered the matter of great importance. It is to the doyen that will have to be addressed all communications from the future Municipal Council or from other Foreign Representatives, should they desire to discuss any matter of general interest, and the doyen, by the manner in which he puts the matter in his covering circular, can exert a considerable influence on the decision to be taken. Moreover, as the Committee of Control will consist of twelve members, a casting vote will presumably have to be given to the doyen, who will preside at the meetings.

I have, &c.

HERBERT E. WHITE.

[7734]

No. 33.

Sir M. de Bunsen to Sir Edward Grey.—(Received February 18.)

(No. 28.)

Sir,

Madrid, February 14, 1913.

IN the absence of the Minister of State I left in the hands of Señor Hontoria, Under-Secretary of State, for communication confidentially to his Excellency, a copy of the bases of instructions to the British delegate on the Madrid Commission which formed the enclosure in your despatch No. 12 of the 5th instant. I explained to Señor Hontoria that the French Government had not yet definitely accepted the bases as they stood, but that you had every expectation that they would shortly do so, and that no obstacle would then remain to prevent the early resumption of the conversations at Madrid with reference to the new régime of Tangier which were interrupted in July last.

Señor Hontoria, who is the principal expert consulted by the Spanish Government in all questions relating to Morocco had already learned from a telegram sent by the Spanish Ambassador in London what was the general character of the proposed arrangements. He had not been led by Señor de Villa Urrutia's report of the matter to modify the opinion he has long since formed that the French are determined, by hook or by crook, to turn Tangier into a French port. He told me that he was still convinced that both on the Committee of Control and on the Municipal Council French influence would be found to prevail over that of any probable combination of other Powers. He thought the game was lost and the position reserved for Spain was so inconsiderable as compared with her very large interests in Tangier that there would now be no inducement for her to work for its development and prosperity. Her effort would naturally be concentrated rather on the development of the resources of her own zone.

This morning the Minister of State spoke to me on the same subject at his diplomatic reception. He said he would not conceal from me that a careful perusal of the new propositions had left an unfavourable impression on his mind. On a council board of only twelve elected members out of a total of twenty-four, as originally proposed, Spain might hope to control a respectable proportion of votes. The limitation to three elected members for each nationality being maintained, he feared that on a council of twenty-three elected, out of a total of thirty-five, Spanish influence would sink to a very low level. His Excellency also informed me that the French chargé d'affaires had read to him a copy received from Paris of the despatch in which M. Paul Cambon had commented on the new bases in terms showing that he regarded them as a triumph for the French contention, and as a great personal success for M. Dupeyrat by whom the negotiation had been conducted. Señor Navarro Reverter thought that the satisfaction of the French Ambassador in London might be taken as indicating that the French Government had had their own way.

The Minister of State's observations may probably be regarded as a reflection of the views of Señor Hontoria. His Excellency hastened to assure me that he had formed no definite opinion on the bases; that he was quite ready to await the result of the renewed conversations at Madrid before making up his mind, and that he did not doubt that the British and Spanish delegates who would take part with the French delegate in those conversations would be able to procure on some points a modification of the bases which would render them more acceptable than at first sight they seemed to be. However this might be, he said that he would welcome the return of Mr. Herbert White to Madrid and hoped the conversations would be able to begin very soon.

Meanwhile I endeavoured to reassure his Excellency as regards the general drift of the new proposals. I said I had not myself seen M. Cambon's despatch, but presumed that the French Ambassador had done no more than emphasise the points on which satisfaction had been given to the French Government. He had also no doubt put in a good word for M. Dupeyrat. It was obviously in the interest of all concerned that a compromise should be found which would enable the Madrid negotiation to be continued. On the main point of the French contention, namely the constitution of a town council sitting in three separate parts, the French Government had certainly been worsted. As regarded the establishment of separate electoral bodies for Europeans, Mussulmans and Jews, there was a good deal to be said for an arrangement which would render it impossible to manipulate the native vote in the interest of the election of European councillors. On the question of the expansion of the municipal council to the figure of thirty-five including the twelve nominated members, I said it seemed to me that the international principle had been strengthened by adding to the number of elected councillors and so making it possible for more nationalities to be represented than there was previously room for. I disclaimed, however, any wish to argue these questions with the Minister of State at present, and I entirely agreed with his Excellency in preferring to wait for the meeting of the commission at Madrid before forming definite opinions on the subject of the precise purport of the new bases.

Señor Navarro Reverter informed me that M. Viégué, French chargé d'affaires, had communicated a French text of the bases which was an accurate translation of the English version.

I have, &c.

MAURICE DE BUNSEN.

[6477]

No. 34.

Sir Edward Grey to Sir F. Bertie.

(No. 127.)

Sir,

Foreign Office, February 18, 1913.

I CONFIRM my telegram No. 64 of the 11th instant in which I informed your Excellency that there was no objection to its being stated that His Majesty's Government had promised to recognise the French and Spanish protectorates in Morocco as soon as the agreement for an international régime at Tangier had been concluded.

I notice that the inspired French press, and I presume also the "Quai d'Orsay," affect the view that, since M. Dupeyrat's visit to London, all difficulties have been smoothed away, and that all that is now necessary to settle the Tangier question is an adjustment of details, which will easily be carried out by the experts to be sent for this purpose to Madrid.

I cannot however say that all prospects of controversy has yet been eliminated, and I do not expect a final settlement to be reached without some further discussion and a good deal of give and take. With the experience before us of the recent negotiations between the French and Spanish Governments when the latter were confronted again and again with unexpected difficulties raised by France up to the very last moment, it would be imprudent for us to announce our recognition of the protectorate until the Tangier agreement is definitely concluded.

There is, moreover, a technical difficulty in the way of any previous recognition which must be borne in mind. An impossible situation would be created if His Majesty's Government gave effect to the recognition of a French and a Spanish protectorate without securing the simultaneous establishment of the new municipality at Tangier. For in the absence of that municipality the existing authority remains in power at Tangier. That authority is the Sultan, and recognition of the French protectorate would thus be tantamount to recognising French authority in and over Tangier, which would be illogical, unfair, and unpractical.

I am, &c.

E. GREY.

[8094]

No. 35.

Mr. Kennard to Sir Edward Grey.—(Received February 19.)

(. 14.)

(Telegraphic.) R.

Tangier, February 19, 1913.

TETUAN was occupied by Spanish troops this morning.

[8248]

No. 36.

Sir M. de Bunsen to Sir Edward Grey.—(Received February 21.)

(No. 29.)

Sir,

Madrid, February 15, 1913.

THE French chargé d'affaires informs me that an agreement was come to yesterday between himself and the Minister of State with regard to the speedy settlement by arbitration of all outstanding disputes between Frenchmen and Spaniards in Morocco. I understand that all such questions are to be at once examined at Tangier by two arbiters, representing respectively the two countries concerned, and that on failure to agree on any case it is proposed that King George shall be requested to appoint an umpire who must adopt a final decision within a specified time. M. Viégué added that a French and Spanish jurist, M. Fabry and Señor Leon, were already designated to act as arbiters, and that they would be ready to begin their investigations at Tangier on the 19th instant.

Señor Navarro Reverter has not mentioned the matter to me, and I merely report what I have heard from M. Viégué.

I am sending copy of this despatch to His Majesty's chargé d'affaires at Tangier.

I have, &c.

MAURICE DE BUNSEN.

[7131]

No. 37.

Sir Edward Grey to M. Cambon.

Your Excellency,

Foreign Office, February 21, 1913.

I HAVE the honour to acknowledge the receipt of the note which your Excellency was good enough to address to me on the 11th instant in regard to the instructions to be given to the delegates who will shortly meet at Madrid to discuss the question of the internationalisation of Tangier.

I am happy to state that His Majesty's Government are in full agreement with the general principle favoured by the French Minister for Foreign Affairs, and had certainly understood the preliminary understanding arrived at with M. Dupeyrat to imply that the delegates at Madrid would be allowed sufficient latitude to deal freely with the details of application of the principles accepted. The British delegate will be instructed accordingly. He will be in a position among other things to explain the views of His Majesty's Government with regard to the suggestion made in your Excellency's note concerning the numerical representation of the native element on the municipal council.

The duties of British delegate will again be entrusted to Mr. White, who has been summoned to London to receive his instructions. I expect that he will be able to reach Madrid in the course of next week, so that the discussions could then be opened if this suits the French and Spanish delegates, but I will not fail to communicate again with your Excellency as soon as I can name a definite date.

I may add that I am consulting some legal experts in Egypt respecting the proposed judicial organisation at Tangier, but that I am not yet in a position to offer a statement of the views of His Majesty's Government on this subject. I shall be prepared, if required, to send an Egyptian expert to Madrid to assist the British delegate in regard to this part of the negotiation.

I have, &c.

E. GREY.

[8724]

No. 38.

Mr. White to Sir Edward Grey.—(Received February 24.)

(No. 72.)

Sir,

Tangier, February 18, 1913.

WITH reference to your despatch No. 31 of the 31st ultimo, I beg leave to offer the following observations on M. Jonnart's reply to the communication addressed to him by His Majesty's Ambassador at Paris relative to the Sherrefian decree imposing a servitude on lands round the fortifications of certain towns in Morocco.

In the first place, I would point out that, although M. Jonnart states in the last paragraph of his letter that the measure is merely temporary and that the prohibition from building within the 250-metre zone will be removed as soon as the state of the country will allow, there is nothing in the decree itself to lead one to suppose that it is not to be permanent. If it was intended that the decree was to be withdrawn as soon as possible, it is a pity that this was not announced, as, thinking that the depreciation of their lands within the zone would be permanent, and that they would not be able to claim any indemnity for such depreciation (article 3 of the decree), proprietors would naturally be inclined to sell before the value of their lands was further reduced. Happily, British subjects, finding that they had the support of His Majesty's Government, have not sold their lands.

M. Jonnart states that the old town walls are of use as fortifications, and cites the case of Fez. We have not denied that at some places town walls are a defence, and had the decree merely referred to such places there would have been no reason for objecting; but the list of places to which the decree is to be applied includes towns where the town walls cannot properly be regarded as fortifications. Such are Casa Blanca, Mazagan, and Saffi, at all of which places a large portion of the present town is outside the old walls. All of these are too small for their present population, and new houses are of necessity being built outside the walls, the tendency being for the better class of European residents to leave the old town and reside outside. I am informed that plans are being prepared for laying out an important new quarter outside the walls of Saffi, near where a new French hotel has been built

(less than 250 metres from the walls) and several stores, &c. There is, I hope, little fear of a serious attack upon any of these towns, as the forces at the disposal of the French are sufficient to suppress any insurrectionary movement before these towns could be threatened; but, even should that not be the case, it surely cannot be maintained that the French forces would confine themselves to defending merely the towns within the walls and abandon to their fate the houses and stores outside the walls. At Saffi, the principal business quarter, stores, &c., are in the Rabat outside the walls, and if a reference is made to the small plan that accompanied Mr. Kennard's despatch No. 292 of the 19th November, it will be seen that the stores being built by Messrs. Murdoch, Butler, and Co., to which objections were raised, are situated in the Rabat at a place where it could not be seriously maintained that it would constitute a danger to the defence of the town. Messrs. Murdoch, Butler, and Co. had a store there before, which was destroyed or seriously damaged by fire; they therefore decided to rebuild it, and, in doing so, to enlarge and improve it. The French consul warned Mr. Russi, one of the partners, that the building was going to be prohibited, and recommended him to comply with the order to stop building, saying that it would be open to him to make an application for special permission to build, and such permission might, perhaps, be granted. Mr. Russi preferred not to take the risk, and continued to build, notwithstanding the official notification subsequently received. Mr. Vice-Consul Mulock supported Messrs. Murdoch and Co., and the building has continued, but only slowly, as they were unable to obtain additional masons, the Moorish authorities having sent round to warn the masons that they must not work on that job. This information was given to me by Mr. Russi, who happened to be passing through Tangier on his way to Saffi from England. I requested His Majesty's vice-consul at Saffi to furnish me with a full report, but it has not yet reached me, communication by post being slow in winter.

The decree not only debars the proprietors of the lands in question from building thereon, but also from planting hedges, trees, or bushes; and article 5, dealing with police and with penalties for infraction, appears to ignore extra-territorial rights and the jurisdiction of the consuls.

M. Jonnart states that the titles of the proprietors of these lands are not disputed, and that there was no desire on the part of the authorities to obtain possession of them. On the other hand, it cannot be denied that the value of such lands would be enormously depreciated if the decree were enforced, and that the proprietors would probably be only too glad to sell at small price land which had become of little use or value.

British subjects look with suspicion upon the provision in article 2 for exempting certain special lands from the operation of the decree. They have not, I fear, much confidence in the impartiality of French officials, and this clause opens the door to favouritism.

In conclusion, I venture to express the opinion that it would be reasonable to prevent buildings near fortifications, properly so called; but so long, at any rate, as our treaty rights exist, we should reserve to ourselves the right of deciding in each special case, where the interests of British subjects are concerned, whether the prohibition should be maintained or not.

I have, &c.

HERBERT E. WHITE.

[9078]

No. 39.

Aide-mémoire communicated by German Embassy, February 24, 1913.

(Translation.)

A PROTOCOL signed at Paris on the 7th June, 1910, by the representatives of Germany, Spain, France, and Great Britain, contains the draft of a Moorish mining law agreed upon by treaty between these Powers. The draft law has, indeed, not yet been introduced into Morocco, as was contemplated by the protocol, but the agreement between the Powers in regard to the draft continues unchanged.

It should be observed in particular that the conclusion of the Franco-German Convention respecting Morocco of the 4th November, 1911, does not affect it in any way, since, according to the general principles of public and private law, treaties may only be terminated or modified by the same persons as those by whom they were concluded, and not by a portion only of the contracting parties. Moreover, the

reference to the draft mining law in article 5, paragraph 1, of the Franco-German Convention proves that at the time of its conclusion the German and French Governments proceeded on the assumption that the agreement between the four Powers in regard to the draft was still in force. Again, it would be incorrect to assume that the establishment of the French protectorate over Morocco could have affected the existence of the Paris agreement in regard to the draft mining law. The establishment of a protectorate does not affect treaties concluded between the protected State and third parties, still less those concluded between third parties alone.

From the above it will be seen that the Paris agreement respecting the Moorish mining law is still in force, and can only be terminated or modified by the four contracting States acting jointly.

[9078]

No. 40.

Memorandum communicated to M. Cambon, February 26.

MOROCCO mining law.

Article 112 of the Algeciras Act lays down that mining regulations in Morocco shall be in harmony with the spirit of European legislation. The right of the signatories of the Act to satisfy themselves that this condition is fulfilled was recognised by the French Government in 1910, and it was on the strength of this that British, French, German, and Spanish delegates met at Paris in 1910 and drew up a draft mining law which was then submitted to the other signatories of the Act.

According to a statement made at the Spanish Foreign Office to Sir M. de Bunsen, the French and Spanish Governments are now discussing together amendments in the draft law. The German Government think that as the draft law was settled between the four Powers it cannot properly be altered without the consent of all of them, and they have sounded us as to our view.

His Majesty's Government are naturally reluctant to become associated with the German Government in an attitude of opposition to France in Morocco, but they do not quite understand the grounds on which the French and Spanish Governments claim to be upset, without consultation with Great Britain and Germany, an arrangement arrived at by all four Powers together, and they cannot but think that it would be desirable to continue to treat the subject of mining legislation as one in which all the four Powers who signed the Paris protocol of June 1910 should co-operate harmoniously, and that it would be regrettable to reopen so delicate a question without reference to two of the signatories of the previous agreement.

Foreign Office, February 25, 1913.

[9639]

No. 41.

Mr. Kennard to Sir Edward Grey.—(Received March 1.)

(No. 73.)

Sir,

Tangier, February 21, 1913.

I HAVE the honour to transmit herewith a list, brought up to date for the year 1912, of the heads of foreign missions at Tangier.

I have, &c.

H. W. KENNARD.

Enclosure in No. 41.

Heads of Missions at Tangier, February 1913, brought up to date from list dated February, 1912.

[The portions of this report copied from the previous report, but with emendations or additions, are marked with a dagger (†).]

France.—M. Regnault, the French Minister, was recalled after the Protectorate Treaty negotiations, and it was understood that he would be offered an embassy. He has now been sent on a special mission to Egypt and elsewhere to study certain

phases of native administration in oriental countries. He was very freely criticised for the part he played in the protectorate negotiations, and there is no doubt that they have not enhanced his reputation, though perhaps too much blame has been attached to him for the events which followed the signature of the Protectorate Treaty.

On the appointment of the resident general for the French zone in April, M. de Billy, the French chargé d'affaires, informed the corps diplomatique that the legation had been reduced to an agency and could no longer deal with diplomatic questions, which must be referred to the resident general. It was, however, realised that this would create an impossible position in view of the non-recognition of the French Protectorate by the Powers and the French Legation, though only an agency for its own *ressortissants*, continues to treat all questions as before.

M. de Billy, whose relations with his colleagues have not improved, more especially in the new situation created by the installation of the protectorate, has been transferred as councillor to Rome. His departure is viewed by the corps diplomatique almost with relief, as his lack of sincerity and impulsive tendency to create unfortunate situations by preposterous proposals rendered official relations with him difficult, though socially he is very agreeable.

The reduction of the legation to an agency is now officially announced, and M. de Valdrome has been appointed agent and consul-general. M. de Valdrome, who has not yet arrived, has been councillor of the French Embassy in Berne, and was for several years at the French Agency at Cairo, an experience which is supposed to have especially fitted him for his new post.

The French chargé d'affaires at present is M. Martin, whom I have found far more straightforward and satisfactory to deal with than M. de Billy, though little is seen of him socially, no doubt owing to the excess of work which is thrown on his shoulders.

† *Netherlands.*—M. de Rappard continues to act as doyen. He is a man of some forty-five years, of considerable ability and energy, a good linguist, and with a desire to be extremely impartial; but his sympathy with Germany, where he has spent some years of his previous career, was apt at times to predominate, though there is a tendency to change in his feelings. He followed with great care and attention the discussions of the diplomatic corps for the construction of the "règlements" arising out of the Act of Algeciras, and was often most useful in finding a formula to satisfy all parties.

He continues to push Dutch trade in Morocco with great vigour and success, and the Dutch steam-ship lines, which he induced to call at Tangier, are doing wonderfully well. (Written in 1912.)

He has acted with dignity and judgment in all the questions arising out of the creation of the protectorate. He feels himself, however, in a false position now and is anxious to leave, more especially as his health is bad. He hopes to be shortly transferred to Washington.

† *Germany.*—Baron Seckendorff, the German Minister, is a pompous but amiable man, and prides himself upon having the reputation of being most conciliatory. The representations, which he makes to his Government, do not apparently receive much attention in the Wilhelmstrasse, and this will probably be his last post, though he is much gratified at recently receiving a high decoration on the Emperor's birthday.

† *Spain.*—M. de Villasinda arrived here in February 1911. The legation has found him very loyal and straightforward. He is distinctly intelligent, has plenty of courage, and kept his head and his temper fairly well in moments of considerable difficulty.

M. de Villasinda is married to a very charming lady, and their house is agreeable. They both write, and both are the children of distinguished Spanish authors. (Written in 1912.)

His position during the past year has been a difficult one owing to the strained relations between France and Spain during the first half of the year, though he does his best to counteract the forward policy of the military party in Madrid.

He will probably be transferred to Lisbon in the near future, and M. Lopez Roberts, the first Secretary, who is cultivated and witty and is also a writer, will no doubt become Spanish agent.

[1613]

K

† *Portugal*.—Count Martens Ferrao has been at Tangier for ten years, and up to the revolution in Portugal was doyen of the diplomatic body. Having no axe to grind, and practically no interests to safeguard, he rarely finds himself in disagreement with his colleagues. Married to an Italian lady with private means he used to entertain to a considerable extent. He has never been to Fez, and has practically nothing to do with the Moorish authorities. Having represented his Government at Algeciras as second delegate, he considered himself entitled to a higher post, and did all in his power to obtain it. He was in Lisbon at the time of the revolution, but returned to Tangier immediately after, and notified to the Makhzen the fall of the monarchy and the constitution of the republic. His action in not resigning has been very severely criticised by some of his colleagues. As the Portuguese Republic had not been recognised by various Powers, and as, moreover, he had not been confirmed in his appointment, he was no longer considered to be doyen. He practically never attends any of the diplomatic meetings (written in 1912) though he is now president of the "Conseil sanitaire."

Austria-Hungary.—While M. de Callenberg, the Austro-Hungarian Minister, has not yet received another post, it is understood that he will not return here. M. Manojlovits is acting as chargé d'affaires. He has served in New York, Bosnia and elsewhere in the consular service and, whilst thirsting for information on every subject and continually asking somewhat puerile questions, is a rather colourless individual.

Italy.—M. Depretis, the Italian chargé d'affaires, is a weak and irresponsible young man who takes a malicious joy in any differences of opinion which may arise in the meetings and circulars of the corps diplomatique.

I now hear that there is a possibility of M. Carignani, the former Minister here, who has been *en disponibilité* for one year and a half, returning to Tangier, though M. Depretis has no official information on the subject. This may be due to the tactless manner in which M. Depretis has handled recent questions here, and to the fact that he has supported French rather than German and Austrian interests.

Russia.—M. Botkine, the Russian Minister, was transferred to Lisbon in the spring, and the Russian Government do not intend to appoint another Minister here. M. de Likatseff, the Russian chargé d'affaires, has no duties beyond carrying out his instructions to support his French colleagues in all questions. He is an irritable and excitable person and most touchy on questions of diplomatic and social etiquette. He is consequently generally at loggerheads with some one of his colleagues and considerably disturbs the harmony of the corps diplomatique.

United States.—Mr. Carpenter has been transferred to Bangkok, and Mr. Blake, the consul-general, acts as chargé d'affaires. He is on the worst possible terms officially with the French Legation, and in conversation speaks rather bombastically of the advice he gives to the State Department. He speaks no French and takes little interest in official business beyond the land questions, with which his legation are continually concerned.

Belgium.—No Minister will be appointed to succeed M. Garnier and M. van Winxtenhoven has been appointed chargé d'affaires. M. van Winxtenhoven was an "ingénieur de ponts et de chaussées" and has evidently never had any diplomatic experience. His daily *gaffes* are the talk of the town, and the doyen is frequently compelled to return the diplomatic circulars to him for the emendation of his annotations. He has been clearly sent here to obtain contracts for Belgium firms, though one would imagine that there must also have been a keen desire to get rid of him in the commercial department of the Ministry of Foreign Affairs at Brussels, where I understand he has served hitherto.

[9668]

No. 42.

Sir M. de Bunsen to Sir Edward Grey.—(Received March 1.)

(No. 32.)

Sir,

Madrid, February 21, 1913.

IN spite of official assertions that no such step was contemplated in the immediate future, Tetuan was occupied by Spanish forces on the 19th instant.

During the past few days General Alfau, the commander of the Ceuta garrison, has been exercising his troops and practicing military promenades in the direction of the town. The previous night his force, numbering some 2,000 men, had camped at Pincon-el-Medih, some 10 miles distant, and at 7 in the morning the advance guard reached the city walls, whilst the general himself took up a position commanding the town from some 2 miles off. He was there met by the Spanish consul, accompanied by his French and Belgian colleagues, and at midday General Alfau at the head of his troops, and accompanied by the Moorish pasha and the consular body, made a solemn entry into the city, where the Spanish flag was hoisted.

The whole movement was effected without a shot being fired, and the arrival of the Spaniards is said to have been generally well received by the population.

The news of this successful step has been received with universal acclamation by the Spanish press. Not only has a city connected in the popular mind with the memories of glorious military events now come under the Spanish flag, but General Alfau's move is considered as the first successful step in the direction of the peaceful penetration of Morocco, which during the past four years has been more than once somewhat rudely checked.

(Confidential.)

The French chargé d'affaires told me that Señor Navarro Reverter to-day related to him the facts leading up to the occupation, which are as follows:—

About a month ago the tribes between Tangier and Tetuan were showing a good deal of restlessness, and it was decided to send a tabor of police to El Fondak, where a Jewish muleteer had been attacked and killed, and a Frenchman, accompanied by two soldiers, had been fired on. The agitation in the district did not appear to subside, and as it was feared that the tabor of police would be attacked in force by the tribes, General Alfau, who had been previously refused permission to occupy Tetuan, was told a week ago that he might use his discretion in the matter. He accordingly proceeded there incognito and conferred with the Spanish consul, and it was arranged that the move should be made on the 19th or the 20th. The consul duly warned the Foreign Minister, but the Minister of War was kept in the dark, as it was feared that rumours of the intended action might leak out. Immediately the news was received the Foreign Minister telephoned to the French chargé d'affaires, in order that he might have time to inform his Government before the news was published in the press.

The attitude of Raisuli is, I understand, still causing a good deal of anxiety to the Spanish authorities. Raisuli has complained that his position is being made intolerable by Colonel Silvestre, who commands the Spanish forces at Alcazar. Accordingly meetings are now taking place between Raisuli, the Spanish Minister at Tangier, and Colonel Silvestre, with the object of coming to some arrangement. Raisuli is said already to have refused an offer of a considerable sum of money on condition that he leaves the country. Señor Navarro Reverter told the French chargé d'affaires that the Spanish Government were prepared to make considerable sacrifices rather than allow anything to happen which might disturb the peace of the country round Tangier.

I have, &c.

(For the Ambassador),

C. RUSSELL.

[9642]

No. 43.

Mr. Kennard to Sir Edward Grey.—(Received March 1.)

(No. 76.)

Sir,

Tangier, February 24, 1913.

WITH reference to Mr. White's despatch No. 72 of the 18th instant regarding the Shereefian decree imposing a servitude on land round the fortifications of certain towns in Morocco, I have the honour to transmit herewith copy of a despatch which I have received from His Majesty's vice-consul at Saffi, from which you will observe that Messrs. Murdoch, Butler and Co. have been allowed to continue their building undisturbed.

I have, &c.

H. W. KENNARD.

Enclosure in No. 43.

Vice-Consul Mulock to Mr. White.

(No. 4.)

Sir,

Saffi, February 17, 1913.

WITH reference to your despatch No. 6 of the 12th instant, I have the honour to inform you that Messrs. Murdoch, Butler and Co. have been allowed to continue their building undisturbed, and without any further interference with their Moorish masons, ever since my letter to the basha of the 3rd December, in which I renewed my refusal to order the cessation of the building without instructions from His Majesty's Legation to that effect.

Attempts of an equally futile nature have been made to stop building in the case of persons of other nationalities, but though in the case of some of them one of the grounds of complaint against the building was that the soil is the property of the Habous administration, the local authorities have invariably been afraid to take the responsibility of stopping any building by force, but have confined their efforts to threats, as soon as they have realised the uselessness of diplomacy and subterfuge.

I have, &c.

E. H. MULOCK.

[9698]

No. 44.

Note communicated by M. Cambon, March 1, 1913.

AFIN de limiter les abus auxquels donne lieu la protection au Maroc, le Gouvernement chérifien a décidé de revenir, dès maintenant, à la stricte application des dispositions de la Convention de Madrid relatives à ce sujet.

L'Ambassadeur de France a été chargé de porter cette décision à la connaissance du Gouvernement britannique. En revenant à la stricte application des stipulations de la Convention de Madrid, le Gouvernement chérifien n'a pas l'intention de renoncer à poursuivre, plus tard, la modification de cette convention par des négociations avec les Puissances intéressées. La résolution qu'il vient de prendre laisse donc entière la question de la révision des listes de protection, prévue par les accords franco-allemand et franco-espagnol relatifs au Maroc.

M. Paul Cambon saisit, &c.

*Ambassade de France, Londres,
le 28 février, 1913.*

[10425]

No. 45.

Sir F. Bertie to Sir Edward Grey.—(Received March 6.)

(No. 120.)

Sir,

Paris, March 4, 1913.

I HAVE the honour to transmit to you herewith copies of the memorandum which I addressed to the French Minister for Foreign Affairs on the receipt of your despatch No. 17 of the 8th January last, respecting the Sherceefian decree relative to the acquisition of land by foreigners in Morocco, and of the reply which I have received from M. Jonnart.

His Excellency argues that the decree in question does not infringe the provisions of the Act of Algeiras, and that the Moorish Government, in issuing it, has kept within the limit of the prerogative possessed by every Government.

I have, &c.

FRANCIS BERTIE.

Enclosure 1 in No. 45.

Memorandum communicated to M. Poincaré by Sir F. Bertie.

HIS Majesty's Ambassador has been instructed by Sir Edward Grey to draw the attention of the French Government to the provisions of a new Sherceefian firman,

[12065]

No. 44*.

Sir M. de Bunsen to Sir Edward Grey.—(Received March 4.)

(No. 6.)

(Telegraphic.) R.

Madrid, March 4, 1913.

YOUR telegram No. 6 of the 13th March: Tangier Municipal Council.

At meeting held this morning, Mr. White made following proposal as compromise:—

Council to consist of thirty-five members, of whom twelve nominated by representatives, three elected by Mussulmans, three by Jews, and seventeen by foreigners. For the last category there will be two elections; at the first, each nationality, the number of whose electors in proportion to total number of electors entitle it to one or more councillors, will elect as many councillors as it is entitled to up to a maximum of three, the other nationalities voting by group or groups, electing the number to which they are jointly entitled. According to our statistics, there would thus be elected three French, three Spanish, two British, and two other members. The seven remaining councillors will be elected at the second elections, in which all the nationalities will vote together. For the purposes of these elections the limit will be raised to four, thus one more Frenchman, one more Spaniard, and two more British may be elected.

The French and Spanish delegates have accepted this proposal, and it is hoped Spanish Government will confirm their delegates acceptance, and Mr. White trusts you will approve, as this appears to him to safeguard our interests best.

Full explanations by post.

[1613]

K*

published in the "Bulletin officiel" of the 1st November, in regard to the acquisition of land by foreigners in Morocco, which in the view of His Majesty's Government are open to grave objections.

The Makhzen have put the new regulations in force as regards foreigners and protected persons without awaiting the consent of the diplomatic body, and difficulties are already being experienced therewith at Rabat by Messrs. Murdoch and Butler, owing to the authorities, after permission had been granted to transfer the title-deeds of land which the British firm had agreed to purchase, insisting on the insertion in the deed of conveyance of a clause reserving to the Makhzen the right to buy at any time a piece or the whole of the land at current price, and thus seeking to establish a procedure of expropriation other than that provided for by article 113 and the following articles of the Act of Algéiras.

Sir Francis Bertie has the honour, by direction of Sir Edward Grey, in the first place to express the hope that the French Government may use their influence with the Makhzen with a view to accede to the legitimate application of the British firm to complete the purchase without the restriction which it is sought to impose, and in the second place to inform the French Government that for the same reasons and on the same grounds as in the case of the decree imposing "servitudes" on certain lands in Morocco, which formed the subject of the memorandum dated the 23rd December, handed to M. Poincaré by Sir Francis Bertie on the 8th instant, His Majesty's Government are unable to admit that the Shereefian firman in question is at present either applicable to or binding on British subjects in Morocco.

Paris, January 13, 1913.

Enclosure 2 in No. 45.

M. Jonnart to Sir F. Bertie.

M. l'Ambassadeur,

Paris, le 4 mars, 1913.

PAR sa note du 13 janvier dernier, votre Excellence a donné connaissance au département des observations qu'avait motivées, de la part du Gouvernement britannique, la circulaire du Grand Vizir aux fonctionnaires marocains publiée dans le "Bulletin officiel" du protectorat du 1^{er} novembre, 1912, et établissant un règlement provisoire pour le transfert des propriétés.

Le Gouvernement britannique s'est ému des dispositions de ce règlement qui se rapportent à la procédure d'expropriation pour cause d'utilité publique; il fait observer que, jusqu'à ce qu'il ait reconnu le protectorat français sur le Maroc, ses sujets restent exclusivement régis par l'Acte d'Algéiras.

Cette manière de voir est celle du Gouvernement du protectorat. Aussi, en élaborant le règlement provisoire qui a donné lieu aux observations de Messrs. Murdoch and Butler, n'a-t-il jamais songé à enfreindre aucun des principes posés par l'Acte international précité.

L'article 60 de l'Acte d'Algéiras dit en effet: "Conformément au droit qui leur a été reconnu par l'article 11 de la Convention de Madrid, les étrangers pourront acquérir des propriétés dans toute l'étendue de l'Empire chérifien. . . ."

Or, la Convention de Madrid de 1880, à laquelle se réfère l'Acte d'Algéiras, en accordant aux étrangers le droit de propriété au Maroc, n'a consacré à leur profit aucun privilège. L'article 11 de cette convention porte expressément: "Le droit de propriété au Maroc est reconnu pour tous les étrangers. L'achat de propriétés devra être effectué avec le consentement préalable du Gouvernement et les titres de ces propriétés seront soumis aux formes prescrites par les lois du pays. . . ." Il s'agit donc bien de la propriété marocaine; telle que la loi marocaine la définit et l'organise, et l'on ne saurait prétendre que la Convention de Madrid a entendu dépouiller le Makhzen, au regard des propriétaires étrangers, du droit de faire les règlements qu'il jugera nécessaires au régime et à l'exercice de cette propriété. De son côté, l'Acte d'Algéiras n'a porté aucune atteinte au droit de légiférer en matière immobilière qui appartient à tous les Gouvernements et que le Makhzen avait gardé intact en 1880.

A la vérité, les conventions internationales encore en vigueur se sont proposées, ainsi que l'avait fait en Turquie la loi de 1867, d'autoriser les étrangers à devenir propriétaires au Maroc, mais elles n'ont pas créé en leur faveur des privilèges refusés

aux sujets du Sultan. L'égalité est devenue la loi commune aux indigènes et aux étrangers.

Le Makhzen est donc demeuré dans les limites exactes de la prérogative qui appartient à tout Gouvernement en modifiant la forme dans laquelle doivent être passés les actes de transfert de propriétés. S'il est une circonstance dans laquelle l'exercice de cette prérogative s'impose à un Gouvernement, c'est lorsqu'il s'agit d'expropriation pour cause d'utilité publique. Les plénipotentiaires d'Algésiras en étaient si convaincus qu'après avoir établi dans les articles 106 à 112 de la convention, les règles relatives aux services et aux travaux publics, ils instituèrent, dans les articles 113 et suivants, une procédure d'expropriation dont les détails furent fixés par le règlement annexe promulgué à Tanger le 1^{er} août, 1910.

Ce règlement est toujours applicable pour tous les cas d'expropriation prévus par l'Acte d'Algésiras. Mais les conditions du Maroc se sont sensiblement modifiées depuis 1906, et il est naturel que les plénipotentiaires d'Algésiras n'aient pas prévu dans le détail tous les cas où l'intérêt public pourrait un jour nécessiter un acte d'expropriation. C'est pour répondre à ces cas que le Makhzen a élaboré un nouveau règlement. Et, pour bien indiquer qu'il n'entend pas le substituer au règlement consécutif à l'Acte d'Algésiras, il a pris soin de le faire suivre, dans le texte publié au "Bulletin officiel" du 1^{er} novembre, de la note ainsi conçue:—

"Il va de soi que la procédure qui précède ne pourra être suivie que dans les cas pour lesquels le recours à la procédure spéciale d'expropriation instituée par l'Acte d'Algésiras n'a pas été prévu dans ledit Acte."

Il ressort clairement de cette note que, loin d'être en contradiction avec l'Acte d'Algésiras, le règlement provisoire du 1^{er} novembre, complète, dans les limites des pouvoirs de tout Gouvernement, les dispositions de cet Acte au regard des cas d'expropriation qu'il n'avait pu prévoir.

Quant à l'obligation de souscrire une déclaration contre laquelle s'est élevée la maison Murdoch and Butler, c'est une formalité que le Makhzen a, paraît-il, jugée avantageuse au point de vue pratique. Comme on ne saurait lui contester le droit de prescrire les formes que doivent revêtir les contrats, tant qu'elle ne portent pas atteinte aux droits respectifs des particuliers et de l'État, il est difficile d'apercevoir sur quelle base légale repose la protestation de Messrs. Murdoch and Butler.

Les dispositions du règlement provisoire du 1^{er} novembre étant, au contraire, en parfaite harmonie avec les principes qui régissent la matière, on peut admettre que les négociants britanniques précités ont procédé à une lecture un peu hâtive du texte incriminé, mais qu'ils auront pu constater après réflexion qu'aucune atteinte n'était, en réalité, portée à leur statut antérieur.

Agréez, &c.

JONNART.

[10775]

No. 46.

Mr. Kennard to Sir Edward Grey.—(Received March 8.)

(No. 79.)

Sir,

Tangier, February 28, 1913.

I HAVE the honour to transmit herewith translation of a note addressed to me by Sid Guebbas proposing an examination of the lists of protégés and mokhalats sent in by this legation for the current year. Similar letters have, I learn, been received by those other legations which have already sent in their lists.

The general question of protection has been very fully treated in the Foreign Office memorandum of the 1st February, 1912, but I consider it well to make a few observations on the subject to assist in arriving at an arrangement when the question comes under discussion at Madrid.

As regards the issue of Semsars' certificates by this legation it has been the practice to require all applicants for Semsars to show that they do a considerable trade with Morocco, and that they pay in customs' duties at least 2,000 dollars annually at the time of the issue of the certificate.

If all one hears is correct, few other legations have been as strict as this legation in supervising the issue of Semsars' certificates, and there may be consequently grounds for enquiry into their lists.

In recent years the applications for certificates of mokhalats have increased enormously, due no doubt to the general insecurity in the country, and merchants have found that these certificates afforded a considerable amount of protection to their

holders. As any interference with them by the authorities would lead to an enquiry they very naturally desired that as many of their clients as possible should hold certificates. By the issue of these certificates no harm was done to the Makhzen as neither the holder nor his own personal property is protected by it, and he is liable, like other Moorish subjects, to all taxes imposed by the Government. On the contrary, the general effect of these certificates has been on the whole beneficial, especially where granted to the agricultural classes, as the merchant in many cases supplied them with stock, grain for seed, and frequently advanced them money, it being in his interest to keep his mokhalat from falling into the hands of the Jewish or Moorish usurers, one of the worst curses of the agriculturist in this country. It would be well perhaps if the mokhalat system could be maintained, as regards farmers and natives having to go into the country, until the Moorish official classes are better trained in a sense of their responsibilities towards those they govern. At the ports themselves and in the interior towns where the French or Spaniards are thoroughly installed there will perhaps not be in the future the need of mokhalats there has been in the past.

In view of these considerations I am of opinion that the time has hardly yet arrived when British traders can dispense with the protection to their interests which is afforded by the mokhalata certificate, and pending receipt of instructions from you I am confining myself to a simple acknowledgment of the letter of Sid Guebbas. I understand from the Netherlands Minister and others of my colleagues who have received similar communications that they are also merely acknowledging the receipt thereof.

The Spanish and German Legations have not yet sent in their lists, and I gather that the present action of the Makhzen is chiefly directed against them owing to the abuses which they and their consular officers have allowed in the system.

I have, &c.

H. W. KENNARD.

Enclosure in No. 46.

Sid Guebbas to Mr. Kennard.

(After compliments.)

I RECEIVED your letter of the 31st January transmitting the lists of protégés and mokhalats for this year. I took note of this and the lists reached me.

I have to inform your Excellency that the Shereefian Makhzen has decided to revert to the practice laid down in the Madrid convention and the treaty and règlement of 1863 absolutely and strictly, and has sent me instructions to examine most carefully the lists of protégés. I therefore trust your Excellency will appoint a representative on behalf of your legation to be present at the examination of the lists of his legation at the Dar en Niaba, and that you will send him to us to consult as to the date on which the examination shall take place.

May you, &c.

(Signed) GUEBBAS.

18 Rabia 1, 1331 (February 24, 1913).

[11290]

No. 47.

Sir F. Bertie to Sir Edward Grey.—(Received March 11.)

(No. 128.)

Sir,

Paris, March 8, 1913.

I HAVE the honour to inform you that a debate took place yesterday in the Chamber of Deputies on the Bill for approving the Franco-Spanish Treaty respecting Morocco, which was signed on the 27th November last.

There was no opposition to the Bill and little criticism of any serious nature as to its provisions. None of the chief authorities on foreign affairs in the Chamber spoke on this occasion. The only speech worth reporting was that made by the Minister for Foreign Affairs, the text of which, extracted from the "Journal officiel," is enclosed herein.*

M. Jonnart gave a rapid résumé of the events which had rendered a convention with Spain necessary. The French Government had not only been actuated by a desire to show their friendly disposition towards Spain in negotiating a treaty with her

* Not printed.

relative to Morocco, they had also considered themselves bound to carry out the engagements entered into by France. Spain on her side had understood that it was equitable to give something in exchange for the advantage of securing through the instrumentality and sacrifices of France liberty of action in Morocco, and had accordingly given France territorial compensation in the north, which though of relatively small extent, comprised a very productive region, and was particularly valuable as regards communication with Algeria and from the point of view of freedom of circulation on the borders of the French zone. In the south France had obtained access to her sea-board possessions, from which the former arrangement with Spain had cut her off. A comparison had been drawn up as to the economic value and extent of the French protectorate and Spanish zone. It was agreed by competent opinion on both sides that they stood in the relation of 100 to 7.95, one to the other.

M. Jonnart laid stress on the fact that the Sultan maintained his "civil and religious authority" over Morocco as a whole. The difficulty had been to reconcile this fundamental principle with the necessity of leaving to each of the protecting Powers its freedom of action.

I beg leave to call your attention to the ensuing passage of M. Jonnart's speech, in which he alluded to the impossibility of admitting full liberty of action for Spain, as it shows that the French Government do not consider that the respective positions of France and Spain in Morocco are on a par:—

"Cependant, vous saisissez sans peine que cette liberté de mouvements indispensable aux deux Gouvernements pour l'accomplissement de la tâche qui leur est assignée, nous ne pouvions l'admettre dans son intégralité. Dans l'ordre politique, comme dans l'ordre économique, l'Espagne devait accepter une certaine limitation de ses prérogatives et de ses pouvoirs. Dans l'ordre politique, d'abord, le protectorat marocain forme un tout qu'il ne nous appartient, ni ne nous convient de dissocier. C'est pourquoi la représentation diplomatique de l'Empire chérifien, reconnue par le traité franco-marocain, est confirmée par le présent accord. Nous pouvons seuls négocier des traités, au nom du Sultan, avec les États étrangers."

His Excellency followed up this statement by an allusion to the restriction imposed on the liberty of action of France and Spain by the engagement to establish a special régime for Tangier, and he expressed the hope that an agreement of a satisfactory nature would shortly be arrived at between the Governments concerned.

His Excellency then gave the Chamber explanations as to various economic and financial questions as affected by the Franco-Spanish convention. If Parliament gave its approval to that instrument, the way would be clear for France to enter upon the great field of action opened up to her in Morocco.

In an eloquent passage, M. Jonnart invited the House to support the Government in a policy of wise and humane administration of the populations henceforth under the protection of France. Instructions had been given to avoid undue extension of military operations. The chief centres of population and influence were already under French control, and further progress would be made by using, as far as possible, persuasive and diplomatic methods in which General Lyautey was a past master. "Trop d'autres devoirs, trop d'autres besoins." His Excellency said, "nous entraînent," and the Chamber, understanding the allusion to the burning question of increasing the strength of the French army at home, applauded.

M. Jonnart, in the latter part of his speech, paid a tribute to the part played by His Majesty's Government and His Majesty's Ambassador at Madrid in the negotiations, at times so delicate, which had preceded the signature of the convention. Neither France nor Spain would forget the manner in which Great Britain had facilitated the rapprochement between the two countries.

The last few paragraphs of M. Jonnart's speech were remarkable from the extremely cordial tone employed in mentioning the future of Franco-Spanish relations. The two countries were, his Excellency said, engaged in the same task of reforming and civilising Morocco, and the success or failure of such work in one zone would inevitably be felt in the other. Co-operation and mutual assistance were, therefore, necessary, and it was to be hoped that such a policy would not only result in forwarding the common cause of European culture in Morocco, but also of consolidating on all points the *entente* between the two nations, which was one of the most cherished desires of France.

One of the speakers in the debate alluded to a recent speech of the Italian Minister for Foreign Affairs, in which an alliance between Italy and Spain with reference to Mediterranean questions was referred to. M. Jonnart interrupted him with the observation that this was not the case. The speaker in question admitted that he had

been perhaps mistaken in alluding to an "alliance," and went on to expatiate on the advantages which would accrue to France from a complete understanding with Spain. He mentioned recent articles in the Spanish newspaper, the "Correspondencia Militar," in which an alliance with France, entailing military co-operation in time of war, was advocated. The "Imparcial" had also expressed itself in favour of the idea, and the "Temps" had published news from its correspondent at Barcelona to the effect that the idea of an alliance with France was daily gaining ground. Advantage should be taken of these sentiments to prepare the way for a closer union between France and Spain, and the best manner of so doing would be to bring about better commercial relations by putting an end to the continual warfare in tariff between them.

There has been considerable comment in the French press with regard to the reported desire of Italy to enter into some agreement with Spain, and it is probable that one of the reasons why so cordial a tone was adopted towards that country by M. Jonnart and other speakers in yesterday's debate arose from the desire to suggest that the best interests of Spain do not lie in the direction of a rapprochement with one of the partners of the Triple Alliance.

M. Jonnart's speech, which is the first one made by him with regard to foreign affairs of an important character, was well received by the Chamber and is praised by the press.

I have, &c.
FRANCIS BERTIE.

[11975]

No. 48.

Mr. Kennard to Sir Edward Grey.—(Received March 15.)

(No. 86.)

Sir,

Tangier, March 8, 1913.

WITH reference to the subject of Habous properties, referred to in your telegram No. 9 of the 24th ultimo, I have the honour to transmit herewith copy of a despatch I have received from His Majesty's vice-consul at Saffi, reporting a prohibition on the sale or transfer of such properties in that district and the appointment of a commission for the valuation of those properties. I also enclose a copy of my reply thereto, and I would add that it has been customary in most, if not all, parts of Morocco to transfer or sell the "key" of Habous house properties or the usufruct of Habous lands openly and through the public notaries, with the consent of the administrators of the "Habous." I am requesting Mr. Vice-Consul Mulock to obtain for me some documents of this nature in order that I may see whether, in making such purchases, British subjects have accepted any engagements which would interfere with their freedom to dispose of the properties by sale or otherwise.

This question, to which is very closely allied that of Makhzen properties, is a very important one for British subjects in the coast ports, as they hold a far larger proportion of these properties than the subjects of any other Power, and in many cases both their business premises and residences are Makhzen or Habous properties, which they have held for very many years, and in which they have become known to the natives; it would therefore be unjust to them were they exposed to the possibility of having these properties taken away from them, or their freedom to dispose of them interfered with, without proper compensation. I would therefore beg to be favoured with an expression of your views on this subject.

As instructed in your telegram above referred to, I shall in the meantime not press for the institution of the Special Commission under article 63 of the Act of Algerias.

I have, &c.
H. W. KENNARD.

Enclosure 1 in No. 48.

Vice-Consul Mulock to Mr. Kennard.

(No. 7.)

Sir,

Saffi, March 1, 1913.

I HAVE the honour to report that the French consul recently convened a meeting for the appointment of a committee for the valuation of Habous property. The meeting was composed of the Kaïd, the Kadi, the M'tahaseb, the Nadir, and

[1613]

M

three notables, two of whom are French protégés, and one the brother of the Nadir, Hadj Tahar Wazanie.

They were informed that Habous property could not be sold or transferred, to which the Kadi replied that they would have—reluctantly, as far as I can gather—to obey these instructions.

A committee or commission was then appointed, consisting of three notables, who are also landowners and large agriculturists, a native carpenter, and a native architect.

I have the honour, therefore, to request your instructions as to whether the instructions given to this Habous commission by the French authorities would be applicable to British subjects desirous of buying such property from, or selling it to, natives and Europeans. If this prohibition against the transfer of Habous property by sale or otherwise is enforced in the case of British subjects, it will prove highly prejudicial to the interests of firms like Messrs. Fernau and Hunot (Limited) and Messrs. Lamb Brothers, who rent large tracts of Habous land near the town. It is on the land of the first mentioned that the site has been proposed for His Majesty's vice-consulate, and it is therefore to be hoped that the French authorities have no power to enforce this prohibition on subjects of the Powers who have not yet recognised the protectorate.

I have, &c,
E. H. MULLOCK.

Enclosure 2 in No. 48.

Mr. Kennard to Vice-Consul Mulock.

(No. 7.)

Sir,

Tangier, March 8, 1913.

WITH reference to your despatch No. 7 of the 1st instant, reporting the instructions given by the French consul to the "Habous" officials at your port, prohibiting the sale or transfer of "Habous" properties and the appointment of a commission for the valuation of those properties, I am of opinion that British subjects are not bound to comply with any regulations of this nature which may be contrary to ordinary usage.

Present holders of "Habous" properties at Saffi have, I presume, purchased them in a legal manner, and under the assumption that they would be free in the future to dispose of them with equal freedom.

I am, however, reporting the matter to His Majesty's Government, and addressing a letter to Sid Guebbas, with a request that the instructions given may be withdrawn, as they cannot be imposed on British subjects without the consent of His Majesty's Government.

In the meantime I would request you to inform me whether it has been the custom there to effect the sale or transfer of rights to "Habous" properties through the Adool and with the consent of the Nadirs, in which case I should be glad if you could furnish me with some copies of such documents.

I have, &c.
H. W. KENNARD.

[12065]

No. 49.

Sir Edward Grey to Sir M. de Bunsen.

(No. 7.)

(Telegraphic.) R.

Foreign Office, March 16, 1913.

YOUR telegram No. 6 of March 14: Tangier Municipal Council.

Proposal seems at first sight to involve rather complicated procedure, but as it appears to reconcile views of the three Powers I am ready to give it my favourable consideration as soon as I shall have received the full particulars promised by despatch.

[12290]

No. 50.

Sir M. de Bunsen to Sir Edward Grey.—(Received March 17.)

(No. 40.)

Madrid, March 14, 1913.

Sir,

WITH reference to my telegram No. 5 of the 12th instant, I have the honour to forward herewith the following papers:—

1. Memorandum by Mr. White on his first meeting with the French and Spanish delegates to the Tangier Commission sitting at Madrid.
2. *Procès-verbal* of the proceedings.
3. Statement put in by the Spanish delegate.
4. Note by Mr. White on the French scheme of judicial organisation for Tangier.
5. French scheme as sketched by M. Berge.

I have, &c.
MAURICE DE BUNSEN.

Enclosure 1 in No. 50.

Memorandum by Mr. White.

M. DUPEYRAT having arrived yesterday, the first meeting between him, M. Padilla, and myself was held this afternoon.

Before the meeting I called upon M. Hontoria, who had expressed the wish to see me. He informed me that he considered the proposed enlargement of the municipal council to thirty-five members to be very unfavourable to Spain. He reminded me that they had been opposed to any limitation of the numbers of the councillors of one nationality, but had, though unwillingly, agreed to accept a limit of four (one nominated and three elected) in a council of twenty-four, as they could thus count on one-sixth of the council being Spanish; now, however, they were asked to maintain the same limitation in a council of thirty-five, which would reduce their representation to about one-ninth of the whole. He objected also to the proposal to allot a greater number of seats to Moorish subjects, Mussulmans, and Jews, and said that Spanish public opinion would never accept so large a representation being conceded to natives whilst the numerous Spanish colony was allotted so small a proportion of the seats.

I begged M. Hontoria not to again raise the question of the limitation of councillors of one nationality, as the discussion would thereby be interminably prolonged. I assured him that His Majesty's Government had obtained from France the best terms it was possible to get, and that it would do more harm than good to reopen this question. M. Hontoria was, however, very persistent, and even referred to the question of the franchise, reiterating his desire for manhood suffrage. I fear that the question of the composition of the council will again give much trouble. The French delegate would, I presume, welcome any attempt of his Spanish colleague to raise the limit of councillors of the same nationality, as the French element in the council would thereby be increased.

I annex hereto the *procès-verbal* of the meeting, from which it will be seen that the Spanish objections are foreshadowed in the second heading of the declaration made by M. Padilla.

After we had settled some preliminary matters, M. Dupeyrat brought up the subject of the manner of setting up the municipality, and repeated the views of his Government on this subject. He referred to the agreement that had been come to, on the suggestion of Sir E. Grey, and stated that his Government has accepted that the Sherrefian decree, after submission to the Sultan and before signature, should be communicated to the other Powers as an act of courtesy. The other Governments, having adhered to the Franco-German convention, had no right to claim that the decree should be communicated to them before promulgation, or to discuss its terms; any suggestions, however, that they might make would be considered by the French, Spanish, and British Governments, with whom the decision would rest. I again put forward the views of His Majesty's Government on this point, but M. Dupeyrat adhered to his views, and stated that the German Government had never made any enquiry on the subject, beyond asking casually whether the arrangement that may be

come to would be communicated to them; whilst, on the other hand, the Italian Government, on learning that the Shereefian decree would be communicated to them, expressed their gratitude, observing that they had no right to any voice in the matter.

From subsequent remarks made by M. Dupeyrat, I gathered that his idea was to include very little in the convention beyond the fact that the three Governments were agreed to internationalise Tangier and to prepare a decree to that effect to be promulgated by the Sultan. I pointed out that the decree could not abrogate any existing treaty rights, and that it would therefore be necessary to insert all such provisions in the convention. It was decided to allow the point to stand over for the present, as when an agreement had been come to on all points it would be easier to decide what should be included in the convention and what left for the decree.

H. E. W.

Madrid, March 11, 1913.

Enclosure 2 in No. 50.

Procès-verbal of First Meeting of Tangier Commission, March 11, 1913.

LA Commission mixte d'Organisation du Régime de Tanger s'est réunie le mardi, 11 mars, à 4 heures et demie, au Palais du Ministère d'État à Madrid.

Après un échange de vues d'ordre général, la commission arrête son programme de travail ainsi qu'il suit :—

1. Organisation du régime de Tanger et de sa banlieue ;
2. Fonctionnement dudit régime ;
3. Ressources de la zone internationale.

La question du régime judiciaire est réservée et fera l'objet d'une étude spéciale, avec le concours de juristes désignés par les trois Gouvernements. Mr. White annonce qu'un juriste du Gouvernement égyptien, Mr. Brunyate, chargé de l'assister dans cette étude, arrivera à Madrid vers le 20 mars. M. Dupeyrat, de son côté, annonce qu'il vient de solliciter du Gouvernement de la République l'envoi à Madrid d'un juriste français, M. Berge, déjà consulté par le Département des Affaires Étrangères, et auteur d'une esquisse de projet d'organisation judiciaire internationale à Tanger, dont le texte a été communiqué aux membres de la commission.

M. Padilla, invité à provoquer pareillement la désignation d'un juriste espagnol, déclare qu'il va faire toutes propositions utiles à son Gouvernement dans ce sens.

La commission juge nécessaire pour la commodité et la clarté de ses discussions de formuler les définitions suivantes :—

Zone internationale de Tanger.—Ainsi sera qualifiée le territoire de Tanger et de sa banlieue tel qu'il est défini par l'article 7 du Traité de Madrid du 27 novembre, 1912.

Municipalité de Tanger.—Cette expression désignera l'ensemble des autorités locales concourant à l'administration de la zone internationale de Tanger.

Ces autorités seront ultérieurement désignées et qualifiées.

Procédure d'Organisation.—La commission constate l'entente de principe intervenue à ce sujet entre les trois Gouvernements. Leur accord prendra la forme d'une convention, à laquelle sera annexé un projet de décret chérifien. Les trois Puissances contractantes communiqueront la convention et le projet de décret aux autres Gouvernements signataires de l'Acte d'Algésiras en leur demandant d'adhérer à l'une et d'accepter l'autre.

Avant d'aborder l'organisation du régime et la zone internationale, M. Padilla demande à faire, au nom de son Gouvernement, une déclaration, dont le texte est annexé au présent procès-verbal.

M. Dupeyrat ne voit aucun inconvénient à donner, en ce qui le concerne, acte à M. Padilla de sa déclaration. Celle-ci, toutefois, ne devant prendre sa signification exacte que par l'application que M. Padilla entendra en faire, en cours de discussion, M. Dupeyrat réserve ses observations pour le moment opportun.

Mr. White s'associe à la réponse de M. Dupeyrat.

La commission décide que les matières à insérer dans la convention et dans le projet de firman seront ultérieurement précisés.

La séance est levée à 7 heures et la prochaine réunion fixée au mercredi, 12 mars, à 4 heures et demie.

Enclosure 3 in No. 50.

Statement by Spanish Delegate.

AU moment où les travaux de la Commission technique vont être repris, je demande la permission de faire, au nom de mon Gouvernement, la déclaration suivante :—

1. En stipulant avec la France l'article 7 de la convention du 27 novembre, 1912, qui établit que "La ville de Tanger et sa banlieue seront dotées d'un régime spécial, qui sera déterminé ultérieurement," l'Espagne a entendu laisser ladite zone en dehors aussi bien de la sphère d'influence espagnole que de la sphère d'influence française. Il va de soi que Sa Majesté chérifienne, placée sous le protectorat éventuel de la France, n'y devra point retenir des droits comportant une intervention dans les affaires intérieures à Tanger.

2. En raison du nombre considérable des ressortissants espagnols à Tanger, les modifications de la situation légale des étrangers, en fait d'impôt, de juridiction, &c., visées par la correspondance échangée entre les Cabinets de Londres et de Paris, ont un intérêt tout particulier pour le Cabinet de Madrid et ne sauraient être acceptées par celui-ci :

- (a.) Que dans les limites strictement nécessaires pour rendre viable l'organisation qu'on se propose de créer ;
- (b.) Qu'à la condition d'assurer une participation suffisante aux Espagnols à Tanger dans la gestion des affaires municipales.

3. Le respect dû aux droits des tiers ne devrait pas devenir une entrave au fonctionnement de l'autonomie municipale ; on devra s'efforcer à concilier celle-ci avec ceux-là, de façon notamment à éviter de porter atteinte à l'égalité qu'on désire établir en matière politique entre les différentes Puissances.

Enclosure 4 in No. 50.

Memorandum by Mr. White.

AT my first interview with M. Dupeyrat, immediately after his arrival, I spoke to him of the judicial organisation to be set up in the international zone, and enquired whether he had drawn up any scheme to serve as a basis of discussion. I informed him that Mr. Brunyate would arrive at Madrid about the 20th instant, and that it would be convenient if I could submit the scheme to him on his arrival, in order that he might have an opportunity to study it before the opening of the discussions on that subject.

M. Dupeyrat was good enough to hand me a memorandum drawn up by M. Berge, copy of which is annexed hereto. M. Berge, who is coming to Madrid to assist M. Dupeyrat in that part of our programme, was for some years president of the mixed tribunal at Tunis, which deals with cases between natives and Europeans ; he is now a "conseiller à la Cour d'Appel" at Paris and is the reporter of the commission appointed to settle the judicial organisation in the French zone.

I propose to reserve my comments on M. Berge's memorandum until Mr. Brunyate has been able to examine it. The only point that appears to me to call for any remark at this stage is the proposal that the judges should be appointed by the Sultan. In the French memorandum of the 10th October the same proposal was put forward in regard also to the procureur général or "avocat du Gouvernement," and it was suggested that all judgments should be in the name of the Sultan. If the Sultan is to appoint the judges and other judicial officers, there would appear to be no reason why he should not also appoint the chief executive officer and other head officials in the international zone. In M. Cambon's note of the 4th February it is, however, proposed

that "l'administrateur sera nommé par la Commission de Contrôle." The matter is one of form merely, and perhaps of no great importance, but I should be glad to be in possession of the views of His Majesty's Government on the point when the subject comes up for discussion.

M. Dupeyrat is requesting M. Berge to be here by the 25th instant, which will allow Mr. Brunyate time to study the proposals before his arrival. The Spanish Government have also decided to appoint a legal expert to join in the discussions, and are bringing one from Egypt for the purpose. I fear some little delay may be caused thereby, but steps are being taken to procure his attendance as soon as possible.

H. E. W.

Madrid, March 12, 1913.

Enclosure 5 in No. 50.

Note by M. Berge.

Esquisse d'un Projet d'Organisation judiciaire internationale à Tanger.

ÉTANT admis que les Puissances renoncent à leur privilège de juridiction et que le Gouvernement marocain ne fasse pas obstacle à ce que ses ressortissants deviennent justiciables d'une juridiction internationale qui viendrait prendre la place des tribunaux consulaires, on pourrait comprendre cette institution de la manière suivante :—

PERSONNEL.

Les magistrats qui la composeraient seraient nommés par le Sultan sur la présentation des Puissances intéressées ou de la Commission de Contrôle; ils ne pourraient être relevés de leur charge que du consentement de cette commission statuant à la majorité des deux tiers des voix; leur traitement comporterait des émoluments assez élevés.

Le personnel se composerait de : un président, six juges, un avocat du Gouvernement; le président, l'avocat du Gouvernement et quatre des juges seraient des Européens des différentes nationalités; les deux autres juges seraient des indigènes.

Le président serait le chef de la compagnie, en réglerait et ordonnerait le service, en assurerait la discipline. L'avocat du Gouvernement représenterait et exercerait l'action publique. Des greffiers et des interprètes devraient être institués en nombre suffisant. (Nomination par le tribunal international? Par la Commission de Contrôle sur la présentation de ce tribunal? Questions à résoudre.)

FONCTIONNEMENT.

(A.)—Au Pénal.

La juridiction inférieure serait exercée par un juge délégué par le tribunal international :—

1. En dernier ressort, il jugerait les infractions équivalentes à celles confiées au juge de simple police en France.
2. En premier ressort—c'est-à-dire à charge d'appel—il statuerait sur les infractions qui sont en France de la compétence des tribunaux correctionnels.
3. Il procéderait à l'instruction préalable des infractions paraissant constituer ce qui est en France un crime justiciable de la Cour d'Assises et il aurait qualité, au cas où la culpabilité serait apparente, de renvoyer, le Ministère public entendu, l'accusé devant la juridiction de jugement.

L'appel des jugements rendus, en premier ressort, par le juge pénal irait devant le tribunal international, qui statuerait, à trois juges, sur les réquisitions verbales ou écrites du Ministère public et sur rapport d'un juge commis, après instruction complémentaire faite par ce dernier, s'il y avait lieu.

Le même tribunal, assisté de quatre assesseurs, statuerait sur les infractions criminelles qui lui seraient déferées par le juge pénal. On pourrait concevoir de celui-ci, pour statuer sur les infractions de nature correctionnelle, dût se faire assister lui-même par deux assesseurs.

(A.)—Au Civil et au Commerce.

La juridiction inférieure appartiendrait à un juge désigné par le tribunal international. Il statuerait :

1. Par des jugements en dernier ressort sur les contestations de faible importance (200 fr. de valeur? 500 fr.? Taux à fixer);
2. Par des jugements en premier ressort sur toutes les autres contestations plus importantes;
3. Par des ordonnances de référé sur tous les cas urgents nécessitant des mesures conservatoires et provisoires, ce, à charge d'appel, mais avec exécution provisoire avec ou sans caution.

Les appels des décisions en premier ressort de ce juge civil seraient de la compétence du tribunal international siégeant à trois juges. On pourrait concevoir que ce juge civil de première instance fût assisté par deux assesseurs pour juger les affaires qui lui sont attribuées en premier ressort seulement, sauf pour les référés.

Les appels civils devraient être jugés sur rapport d'un juge-commis, lequel pourrait provoquer des parties, avant l'audience, toute explication complémentaire ou toute production de pièces utiles, ou même procéder à des mesures d'instruction.

Il est bien entendu que jamais le juge délégué au civil ou au pénal ne pourrait faire partie du tribunal qui connaîtrait en appel des décisions qu'il aurait rendues.

(C.) Disposition commune aux deux ordres d'affaires.

En toute matière, les décisions du tribunal international seraient souveraines et définitives, sans aucun recours possible, sauf pour violation de la loi ou excès de pouvoirs. Ce recours ne serait pas suspensif en matière civile; il pourrait donner lieu à une amende au cas où il serait reconnu abusif. Il devrait être examiné et jugé par une autre juridiction placée hors de la circonscription du tribunal international de Tanger; on pourrait souhaiter qu'une telle compétence fût exercée par le tribunal fédéral de Lausanne.

COMPÉTENCE.

Tous les procès entre étrangers de même nationalité pourraient être jugés par leurs consuls, sans appel, s'ils le choisissaient comme arbitre, de même les contestations entre indigènes seraient déferées, s'il y avait compromis entre les partis, à l'arbitrage sans appel du khalifa.

A défaut de cette entente des partis avant l'ouverture des débats devant la juridiction internationale, les procès entre Européens de même nationalité et entre indigènes seraient, comme les procès entre plaideurs de nationalités différentes, de la compétence du tribunal international. Il convient d'excepter cependant de cette compétence les questions de statut personnel des indigènes musulmans ou israélites, ainsi que les questions relatives à la validité des constitutions de habous.

La municipalité et toutes les administrations de Tanger seraient justiciables du tribunal international pour les atteintes portées par des mesures administratives aux droits acquis des étrangers.

Cela pour les affaires civiles et commerciales. Quant aux litiges qui dépendent de la justice répressive, ils devront nécessairement et exclusivement être portés devant la juridiction internationale, soit sur une plainte de la partie lésée, soit sur les poursuites de l'avocat du Gouvernement agissant d'office pour l'ordre public.

LÉGISLATION.

La détermination des lois applicables par une juridiction internationale apparaît avoir été faite avec bonheur pour les tribunaux mixtes d'Égypte; on leur a fait des codes spéciaux pour la fixation des règles générales du droit, et on leur a précisé le terrain d'application de lois locales.

Il sera bon de profiter de cette heureuse expérience: ainsi le Code civil mixte d'Égypte pourrait être adopté sans difficulté pour la juridiction internationale de Tanger; on tenterait peut-être également avec succès de s'emparer du Code pénal mixte

d'Égypte, à moins qu'on ne jette des vues sur le Code pénal tunisien qui est sur le point d'être promulgué, car ce travail s'est inspiré largement de la législation égyptienne et y a réalisé d'intéressantes simplifications.

Quant au Code de Procédure civil et d'Instruction criminelle, qui sont à proprement parler des règlements d'organisation et de pratique judiciaires, il faudrait en faire de spéciaux en rapport avec l'organisme spécial ci-dessus esquissé. On pourrait songer à en tracer les grandes lignes et à en préciser les bases essentielles dans le document qui instituera une juridiction internationale à Tanger, pour laisser les détails d'application réservés à des règlements développés. Il y aurait aussi à tarifier les frais de justice et à organiser leur taxe et leur recouvrement. Il faudrait encore tenter d'établir sur les procédures des taxes qui, tout en restant modérées, viendraient, par leur perception au profit de l'État, réduire la dépense qui résulterait du fonctionnement de la justice internationale.

A ce propos, on examinerait avec fruit la question de savoir s'il n'y aurait pas quelque profit à tirer d'une expérience qui vient d'être faite en Égypte, où on a donné à la Cour d'Appel mixte certaines attributions législatives. Il serait intéressant de chercher à préparer le perfectionnement de la législation internationale dont il est parlé ici en attribuant les pouvoirs nécessaires, soit au tribunal international seul, soit à une assemblée dont il ferait partie et qui comprendrait également tout ou partie de la Commission de Contrôle. Si de telles vues semblent en contradiction avec le principe de la séparation des pouvoirs, il n'est pas téméraire de penser que cette divergence est plus apparente que réelle.

Quoiqu'il en soit sur ce point, il suffit de noter ici que parmi les matières à régler immédiatement, il faut placer en première ligne la discipline des magistrats et de leurs auxiliaires, celle des avocats, les règles à suivre pour la tenue et la police des audiences, le mode d'exercice des pouvoirs du président et de l'avocat du Gouvernement, la désignation des juges de première instance, le choix des assesseurs.

Sans anticiper sur ce travail d'organisation, on peut indiquer qu'il serait bon que les magistrats délégués pour juger en première instance fussent de nationalités différentes et changés tous les ans; que les assesseurs ne soient pas pris parmi les spéculateurs ou hommes d'affaires, mais qu'ils soient choisis de manière à offrir de grandes garanties d'impartialité de telle sorte que la majorité du tribunal, quand il siégerait, ne fût pas de la même nationalité que le délinquant ou un des plaideurs civils; enfin, que le choix de ces assesseurs et leur mode de désignation fussent confiés à une commission annuelle composée, avec les chefs du tribunal, des consuls, ou de tout ou partie de la Commission de Contrôle.

Cette large esquisse d'une organisation de justice internationale permet d'intercaler entre ses lignes toutes les règles propres à garantir les plaideurs contre les abus et à assurer l'administration d'une justice simple, rapide, efficace, impartielle et éclairée.

Le 8 mars, 1913.

[12689]

No. 51.

Sir M. de Bunsen to Sir Edward Grey.—(Received March 19.)

(No. 42.)

Sir,

Madrid, March 16, 1913.

I HAVE the honour to forward to you herewith the *procès-verbaux* of the second and third meetings of the Tangier Conference, together with a memorandum by Mr. White.

I have, &c.

MAURICE DE BUNSEN.

Enclosure 1 in No. 51.

Memorandum by Mr. White.

THE second meeting of the delegates, which was held on the 12th instant, was taken up almost entirely by long informal discussions (1) as to the appointment of the Moorish nominated member of the Municipal Assembly and (2) as to the composition of the assembly and the mode of the election of its members, without any definite conclusion being reached on either of these points.

At M. Dupeyrat's suggestion, it was decided to call the body in question "Assemblée municipale" rather than "Conseil municipal," in order to avoid conveying a false impression of its functions, which are distinct from those of municipal councils in other countries.

With regard to the first of the above-mentioned questions, the Spanish delegate objected to the appointment of the nominated Moorish member of the assembly by the Sultan's representative, as the Spanish Government still held that there should be no Khalifa at Tangier; he proposed that the Moorish nominated member should be appointed by the Committee of Control. To this M. Dupeyrat very naturally objected, insisting on the Sultan being represented by a Khalifa at Tangier, and on such Khalifa appointing the Moorish nominated member in the same manner as his colleagues on the Committee of Control—each appointed the nominated member of their respective nationalities. I could not but express my agreement with M. Dupeyrat, and, after a long and fruitless argument between him and M. Padilla, it was decided to let the point stand over until the latter could obtain fresh instructions.

We then passed to the consideration of the composition of the Municipal Assembly and the mode of election of its members. I explained the fears I entertained that, under the proposed system of *scrutin de liste*, all the electors of the foreign college electing jointly the foreign members, the electors of any nationality, including even the French, notwithstanding their numbers, might find persons of their nationality elected against their wish, and in preference to those of their choice. I suggested that we should examine the question very carefully, and endeavour to discover a system by which this danger could be avoided.

M. Dupeyrat at once admitted that this was a real danger which had escaped him, and the rest of the time was taken up in a consideration of various systems of election combining proportional representation with a limitation of the members of the number of members of any one nationality. No satisfactory solution was, however, found.

M. Padilla was in favour of a system of proportional representation pure and simple, and protested against the maintenance of the limitation to three now that the Municipal Council was to be considerably enlarged.

M. Dupeyrat stated that he would naturally be glad to see M. Padilla's views adopted, as it would be to the advantage of France, but he added that he would stand by the agreement he had come to with Sir E. Crowe, and would maintain the limitation of three if I insisted upon it.

After the meeting I gave the matter much careful consideration. I felt there was justice in M. Padilla's argument, and that, having accepted a limit of three in an assembly of twenty-four, it was difficult to justify our objection to the limit being raised to four if the assembly is enlarged to thirty-five. In the former, after deducting the twelve nominated members and the six elected French and Spanish members, there remained only six seats available for British and other nationalities; whereas, with an assembly of thirty-five, after deducting the twelve nominated members and the fourteen elected Moorish, French, and Spanish members (six Mussulman and Jewish and eight French and Spanish), there would remain nine seats for British and other nationalities. On the other hand, I feared that if the limit was raised to four in the case of foreigners, it might be difficult to refuse the same treatment to Mussulmans and Jews, and this was not desirable. Another consideration I had in my mind was the possible large increase in the British vote if, as is expected, the coaling and shipping trade of Gibraltar is transferred to Tangier when the new harbour is built. I therefore resolved not to maintain an uncompromising attitude on this point, but to be prepared to make a concession if I could obtain sufficient guarantees as to the mode of election.

At the next meeting I accordingly proposed the following system of election, which appeared to me to guarantee that the British colony (1) would obtain their due share of members and (2) that those members would be those of their own choice:—

The system may perhaps be more clearly explained if the actual figures are taken. Deducting from the total number of seats on the assembly (35), the 12 nominated and the 6 elected Mussulman and Jewish members, there remain 17 seats available for foreigners, of whom there are 862 electors. Dividing 862 by 17, we have a quotient of 50·7—i.e., each group of 50·7 electors is entitled to appoint 1 member. The French electors number 379; they are therefore entitled to 7·47 seats, the 296 Spanish electors are entitled to 5·80 seats, the 98 British electors to 1·93 seat, and the electors of other nationalities are jointly entitled to 1·75 seat. Eliminating fractions by bringing the figures to their nearest whole numbers we have seven French, six Spanish, two English seats, and two of other nationalities; but to the results thus obtained must be applied the limit of three of one nationality, therefore four seats must be taken away from the

[1613]

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French and three from the Spanish electors. These calculations would be made by the Committee of Control before the elections and the results published. First elections would then be held, each nationality entitled to one or more seats voting separately for the number of members to which it is entitled. In the case of nationalities whose colonies are not large enough to entitle them to a member of their own, they can group themselves as they like, either altogether or in separate groups of at least 50·7 electors. After completing the first elections, there would remain the seven seats taken from France and Spain still to be filled. For that purpose a second election would be held, at which the foreign electors of all nationalities would vote together on the *scrutin de liste* principle.

On my making this proposal, M. Dupeyrat suggested that at the second election the united electorate should be free to elect whom it wished, provided that the total number of persons of any one nationality elected to the assembly did not exceed four; thus, taking the preceding figures again, one more Frenchman, one Spaniard, and two more British subjects could be elected at the second election. This suggestion appeared to me to conciliate all views, and I readily accepted it. With this modification, both M. Dupeyrat and M. Padilla accepted my proposal, and, as I have since heard that M. Hontoria has also approved it, I trust that this troublesome question may be considered as definitely settled.

I do not think the German Government can reasonably raise any objection to a system based on an equitable principle, especially as it safeguards the interests of the minority far better than would a single election by all the foreign electors jointly on the *scrutin de liste* principle. The twenty-nine German electors would be entirely swamped in an electorate of 862, but they will be the strongest party in the group of eighty-nine electors, and would be certain to have at least one German member, apart from any that may be returned at the second election.

The question of the Moorish nominated member was again discussed, M. Padilla explaining the views of his Government, but still no agreement could be come to.

We then passed to the question of the Committee of Control, and it was decided that the assembly should elect its own president for the term of a year at a time. This system appeared to offer a better guarantee for assuring an efficient president than that of making the *doyen* of the foreign representatives *ex officio* president.

The *procès-verbaux* of the second and third meetings are annexed hereto.

H. E. W.

Madrid, March 15, 1913.

Enclosure 2 in No. 51.

Procès-verbal of Second Meeting of Tangier Commission, March 12, 1913.

ASSEMBLÉE municipale. Elle se compose—

1. De douze membres nommés par le Khalifa du Sultan et les agents et consuls généraux des Puissances signataires de l'Acte d'Algésiras.

A cette formule, proposée par M. Dupeyrat et acceptée par Mr. White, M. Padilla déclare ne pas pouvoir adhérer, son Gouvernement n'ayant pas admis jusqu'ici l'existence d'un Khalifa du Sultan dans la zone internationale.

De ce fait, le No. 1 de l'article relatif à la composition de l'Assemblée municipale est provisoirement réservé.

2. La commission décide que tous les autres membres de l'Assemblée municipale seront élus.

Sur le nombre des membres à élire, la mode d'élection, &c., la commission se livre à une discussion, qui sera continuée à la prochaine séance, fixée au vendredi, 14, à 10 heures et demie du matin.

Enclosure 3 in No. 51.

Procès-verbal of Third Meeting of Tangier Commission, March 14, 1913.

LA commission, réunie au Palais du Ministère d'État à 10 heures et demie, reprend la discussion relative à la composition de l'Assemblée municipale.

Mr. White propose que les électeurs de chaque nationalité soient protégés contre les coalitions qui pourraient ou les priver de représentants élus ou leur imposer des

représentants indésirables. Après échange de vues, les trois délégués conviennent de recommander à l'agrément de leurs Gouvernements le système ci-après :—

Le total des électeurs immigrés sera divisé par le nombre des sièges à pourvoir; le quotient ainsi obtenu sera le quotient électoral. Chaque nationalité aura droit à autant de sièges que ce quotient sera contenu de fois dans le chiffre de ses électeurs, sans qu'elle puisse, toutefois, s'assurer de la sorte plus de trois représentants. Les nationalités n'ayant qu'un nombre d'électeurs inférieur au quotient pourront s'apparenter pour acquérir ensemble le droit à un siège, sans que, cependant, les électeurs de cette même nationalité soient admis à concourir à plusieurs groupements différents.

Les sièges demeurés disponibles après cette opération seront pourvus de titulaires au scrutin de liste par tous les électeurs ressortissants des Puissances réunis en un collège unique. Ce nouveau scrutin ne pourra en aucun cas attribuer plus d'un siège supplémentaire aux nationalités déjà pourvues de trois représentants, conformément aux dispositions du paragraphe précédent.

M. Dupeyrat constate que le mode de désignation de toutes les catégories de conseillers a été envisagé. Il propose, en conséquence, d'arrêter le texte de l'article relatif à la composition de l'Assemblée municipale.

M. Padilla déclare à ce propos : Le Gouvernement espagnol est d'accord pour la nomination d'un certain nombre de conseillers municipaux par les représentants des Puissances à Tanger. Il s'était montré disposé à accepter la nomination d'un conseiller municipal par l'autorité marocaine au moment où les indigènes, ne pouvant avoir plus de conseillers municipaux que les autres colonies, ils se seraient trouvés dans une position d'infériorité par suite du manque d'un conseiller municipal désigné. Mais si, pour mettre fin à cette position d'infériorité, on prétend porter de trois à six le nombre de conseillers indigènes, la raison susvisée perd sa force. Toutefois, si on ne veut pas confier aux Marocains l'élection intégrale des conseillers de leur nationalité et si on tient absolument à l'existence d'un conseiller marocain désigné, M. Padilla ne verrait plus d'inconvénient à se rallier à cette idée, étant bien entendu que la nomination n'appartiendra pas directement ou indirectement au Sultan, mais à la Commission de Contrôle. Le Sultan ne devant exercer ses droits qu'avec l'intervention de la France, sa faculté de désigner un conseiller municipal marocain reviendrait à donner à un des Gouvernements intéressés la possibilité de nommer deux conseillers au lieu d'un, comme toutes les autres Puissances.

Votre esprit ne pouvant être d'établir une inégalité de cette nature, vous vous rallierez sans doute à la façon de voir du Gouvernement espagnol. La question est réservée.

Commission de Contrôle.—La Commission de Contrôle est composée du Khalifa du Sultan et des titulaires des agences et consulats généraux des Puissances signataires de l'Acte d'Algésiras existant à Tanger.

Le Khalifa du Sultan est président d'honneur de la Commission de Contrôle. Un président effectif et un vice-président sont élus chaque année à la majorité des suffrages.

La séance est levée à 1 heure un quart.

[11975]

No. 52.

Sir Edward Grey to Mr. Kennard.

(No. 55.)
Sir,

Foreign Office, March 19, 1913.

I HAVE received your despatch No. 86 of the 8th instant, reporting the issue of instructions by the French consul at Saffi prohibiting the sale or transfer of habous properties at that port, and I approve your action in addressing a letter to Sid Guebbas requesting that these instructions may be withdrawn.

I have to request that you will make further representations to the effect that the question of these properties cannot be dealt with by the Makhzen alone without previous discussion with the Diplomatic Body at Tangier. You should at the same time once more urge most strongly that the instructions recently given to the habous officials at Saffi should be withdrawn forthwith.

I am, &c.

E. GREY.

Memorandum dated March 19.

THE principal British merchants established on the Morocco coast have called the attention of His Majesty's Government to the serious injury inflicted on their financial position and on British trade in Morocco generally by the recent action of the Moorish authorities in regard to real property.

The grievances of the British firms refer particularly to:—

1. The Shereefian decree imposing a Government servitude over all land within 250 metres outside town walls and fortified posts.
2. The Shereefian decree claiming for the Makhzen land bordering upon the sea and rivers.
3. The provisions in the same decree forbidding the transfer of land unless the purchaser agrees to certain conditions relative to expropriation which appear unduly favourable to the Government.
4. The recent refusal of the Moorish authorities without explanation or reason to authorise the transfer of title-deeds to land.

1. The decree establishing the servitude falls with especial heaviness on British subjects. As earlier comers to Morocco than those of other nationalities they naturally acquired most of the land just outside the town walls, where all the business is done, so that the longer established the firm, the more likely it is to suffer by holding land within the 250-metre zone. At Casa Blanca and Mazagan much, and at Saffi, nearly all of the land within the zone belongs to British subjects. Much of it has been in their possession for a long period, in some cases upwards of fifty years, and has acquired, largely owing to their efforts during three generations in developing trade, a very considerable value, which this decree reduces to nothing by rendering the property unmarketable. The entire business premises of leading British firms are within the zone at Casa Blanca, Mazagan, and Saffi. Very considerable offers for their purchase have been refused, and they have been regarded in the light of a strong reserve fund which the decree will practically wipe out. All the lands referred to are held by the permission of the Government under proper titles in accordance with the provisions of the treaties, and until the issue of the decree these lands were bought and sold in the open market without restriction.

These remarks apply especially to Casa Blanca, Mazagan, and Saffi. To anyone with an intimate knowledge of these three leading commercial ports, the decree seems to have been issued under a complete misapprehension of the conditions there prevailing, and its references to hedges, trees, water-wheels, and funeral monuments are meaningless when it is realised that the town walls in these places are more or less in the middle of the town and that the objects referred to are as likely to be met with there as they would be in the heart of the City of London. The lands on which servitudes are imposed consist of belts of extremely valuable town property 250 metres wide situated in the busiest portions of the different ports, and comprising for the most part warehouses, offices, banks, flats, &c. The value of such property, based on recent transactions, is about 5*l.* per square metre.

It is understood that the decree had its origin at Rabat in the difficulty experienced by General Lyautey in obtaining land for Government purposes at a reasonable price. This was due solely to the action of recently arrived French speculators who had bought up all the available land there, and asked exorbitant prices for it. The decree was no doubt originally directed against these land speculators, but outside Rabat the chief sufferers are old-established settlers in the country who had every right to expect undisturbed enjoyment of long-acquired interests.

In the case of the three ports referred to, apart from the extreme remoteness of the risk of a native rising, experience during three generations shows that Arabs will not as a rule attempt to attack walled towns even when these are practically undefended. They are in no way suited for such enterprises. Casa Blanca is amply protected by forts on the hills about a kilometre from the town. Saffi, which lies open to rifle fire from high ground on two sides, can only be adequately defended in the same manner. At each of the three ports the most important part of the town is outside the walls, where are to be found the commercial and European residential quarters, in fact the only comparatively civilised part of the place (at Casa Blanca

and Mazagan the whole 250-metre zone is already built over). The military authorities can hardly propose to abandon these and to confine themselves to the defence of the often more or less ruinous old Arab towns within the walls.

The Makhzen cannot fail to acknowledge the assistance afforded to the municipal and military authorities by British owners of land. The latter have always been willing to cede land gratis for making new roads and widening old ones, to contribute freely to the cost of such roads, and to sell land when required for military and other Government purposes at low prices, often at little over cost, always much below the current value. They have offered and given stone and sand gratis for the construction of ports when French subjects have asked for payment. They have abandoned rights given them by native law to frontages on the sea in order to allow of the construction of wide public roads in such places, and they are still prepared to assist the Government and the municipalities in the development and improvement of the coast ports as far as they reasonably can. The enforcement of the decree can only retard progress, and its local working must give rise to endless trouble and bad blood; while the distrust and apprehension inspired by the mere fact that a measure so arbitrary can be enforced at all, must have a baneful effect on trade generally and do much to check private enterprise in Morocco.

In support of their contention, the British merchants bring forward definite instances.

At Casa Blanca a British firm possesses about 4 acres of land, all built over, just outside the walls. The value of the land before the issue of the decree was estimated at about 75,000*l.*, that of the buildings upon it at from 15,000*l.* to 20,000*l.* The owners had intended to develop this property by removing some of the existing buildings and erecting on their street frontage large European shops with residential flats above. Under the new regulations this project must be abandoned; the property brings in a return only trifling as compared to its former capital value, and, while subject to the military servitude, it will be unsaleable.

At Saffi the same firm possesses within the zone, besides its whole business premises (valued at about 50,000*l.*), land still unbuilt upon, where it had intended to invest capital in buildings to let. This land must now remain unproductive, and the value of the business premises as an asset is reduced to something inconsiderable.

Other firms also hold at Saffi within the zone a considerable quantity of land which they can now neither develop or sell at anything approaching its natural value.

Another British firm bought at Rabat, just before the issue of the decree, at a cost of about 20 fr. per square metre, a valuable site on which to build new offices and warehouses, the lease of their present premises being about to expire. The land bought being within the zone cannot be built upon, and the purchase has had to be cancelled. Land and premises at Rabat are so difficult to obtain that this firm may have to close its branch at Rabat in consequence.

2. It is impossible to see on what ground the claim of the Makhzen to land bordering on the sea and rivers is based. The native customs regarding the boundary on the sea-front of such properties are quite definite, and cases based upon them have, it is understood, been recently settled in Tangier in the owners' favour. British holders of land bordering on a sea-beach have always been ready to cede land above high-water mark for public roads and boulevards between their property and the beach, and the refusal of the Shereefian Government to sanction the transfer of plots of land forming part of properties bordering on sea-beaches or rivers appears an arbitrary and illegal interference with the rights of British subjects.

British subjects are largely interested in land bordering on the beach at Casa Blanca, which from its position is very valuable for building purposes. Before the issue of the decree plots were being sold at from 50 fr. to 70 fr. per square metre, and transfers were made freely in the usual manner. Owing to the refusal of the authorities to sanction the further transfer of these plots, sales already made cannot be completed, and no further transactions can take place. It is therefore impossible for British subjects to proceed with their legitimate business in the realisation of this land, and they are losing interest on the money for sales already made which they cannot complete.

3 and 4. Owing to a general refusal of the authorities for some months, with or without reason, to permit the transfer of title-deeds, much financial loss and inconvenience have resulted. Buyers have been unable to complete the purchase of lands bought with a definite object, and in many cases sales have been cancelled. As a consequence, transactions in real property have practically ceased. For instance, at

Casa Blanca alone, the necessary transfer of documents is still refused for a house within the walls sold in October last, for warehouses sold in November last, and for a garden sold in December last. The same thing has happened in the case of sundry parcels of land at Casa Blanca outside the zone sold for no less than 50,000l. by British firms since last July. In all these instances the vendors, being unable to complete the sales, cannot obtain payment of money they have counted upon, and are suffering loss of interest and financial inconvenience.

The serious state of affairs revealed in the preceding paragraphs calls for energetic action on the part of His Majesty's Government, who cannot remain indifferent to the grave prejudice which the action of the Makhzen is causing to British subjects. Apart from the grounds of justice and equity on which representations might well be based, His Majesty's Government maintain that the rights which British subjects enjoy in Morocco under the Algeiras Act and the Madrid Convention of 1880 remain unimpaired unless and until explicitly abrogated. They cannot therefore admit that the recent Sherrefian decrees are at present applicable to or binding on British subjects, and they must urge upon the Moorish Government in the most emphatic manner the necessity of their immediate withdrawal and the issue of instructions to the Moorish officials concerned to cease their obstructive attitude in the matter of land transfers.

Foreign Office, March 19, 1913.

[12290]

No. 54.

Sir Edward Grey to Mr. White.

Sir,

Foreign Office, March 20, 1913.

I HAVE received Sir M. de Bunsen's despatch No. 40 of the 14th instant, transmitting a memorandum by you on the first meeting of the delegates to the Tangier Commission sitting at Madrid.

In your note on the French scheme of judicial organisation for Tangier drawn up by M. Berge, you request that you may be informed of the views of his Majesty's Government on the proposal that the judges shall be formally appointed by the Sultan. I am of opinion that, as a question of principle, there would seem to be no objection to the appointments of the judges being made in the name of the Sultan, provided it is clearly understood that the Sultan has no power to refuse the appointment to a judge duly presented by the Consular Body or other authority that may eventually be charged with the duty of selection; but that the question of selecting and appointing the judges is likely to be somewhat materially affected by the judicial organisation as a whole which is to be introduced, and of which these judges will form an integral part. Before, therefore, coming to any definite decision on this point, I would prefer to wait until I have Mr. Brunyate's opinion and advice on the whole scheme.

I am, &c.

E. GREY.

[12689]

No. 55.

Sir Edward Grey to Mr. White.

Sir,

Foreign Office, March 20, 1913.

I HAVE received from Sir M. de Bunsen your memorandum dated the 15th instant, on the second and third meetings of the Tangier Conference, together with the *procès-verbaux* of those meetings.

I approve the decision of the delegates to call the municipal body the "Assemblée municipale" rather than the "Conseil municipal" in order to avoid conveying a false impression of the functions of that body.

With regard to the manner of appointment of the Moorish nominated member of the Municipal Assembly, I am of opinion that His Majesty's Government cannot but uphold the French contention that the Sultan shall be represented at Tangier by a Khalifa and that the Khalifa shall appoint the Moorish nominated member in the same way as his colleagues on the Committee of Control are each to appoint the

nominated member of their respective nationalities. You should, therefore, continue to support M. Dupeyrat on this point.

The composition of the Municipal Assembly and the mode of election of its members presented many difficulties, and I must congratulate you on having discovered a solution of this intricate problem and on having secured the consent of your colleagues to your proposals. I readily assent, therefore, to the adoption of the scheme set forth in your memorandum, although I am sensible of the somewhat complicated procedure which it will involve, and I would only stipulate that, should experience show that some simpler method would secure the same practical advantages, the competence of the Assembly to try it should be reserved.

I also approve the decision that the Committee of Control shall elect its own President for the term of a year at a time. I desire, however, to point out that if all the candidates for the Presidency were to be voted for together by all twelve members of the Committee, some difficulty might arise owing to the even number of voters rendering a tie possible. It is a matter for consideration whether special arrangements should be made to meet this contingency. If it should be thought that it would be objectionable to give a casting vote to the President, it might perhaps be provided that each candidate should be voted for separately, and that the candidate himself should not be entitled to vote in respect to his own election, thus ensuring an uneven number of voters. The votes would be taken for and against in each case and the candidate receiving most votes would be elected. Should a tie even then result, (e.g., two candidates might get seven votes "for" and four "against") the two leading candidates would continue to be voted for until one obtained more votes than the other; or, alternatively, they could be voted for together.

I am, &c.

E. GREY.

[13213]

No. 56.

Consul MacLeod to Sir Edward Grey.—(Received March 22.)

(No. 1. Confidential.)

Sir,

Fez, March 7, 1913.

I HAVE the honour to enclose herewith a report on the events in the northern area of the French zone in Morocco during the thirteen months ended the 28th February, 1913.

It will be noticed that the report is in two parts: Part I being a summary of the events of those months, and Part II a description of the protectorate in the making.

Part I contains but little that is new, or has not already been reported, but I send it in case it may be of use in making the report complete in itself, and thus obviate reference to previous correspondence.

I have, &c.

J. M. MACLEOD.

Enclosure in No. 56.

Report on Events in Northern Area of French Zone in Morocco.

PART I.—Retrospective.

DURING the past twelve months I have had the honour to report in detail from time to time the various events which have occurred in this district, and the changes which have come to pass.

2. These changes and events followed each other with such rapidity, and were of so unprecedented a character as to afford no convenient stopping point or period from which to examine their general effects and estimate their future consequences.

Things in general hereabouts seem now, however, so far settled, and the form of administration so far defined, that it may now be possible to describe the situation comprehensively, and to study the outlook which it now seems to present.

3. It will be remembered that during the early spring months a certain amount of disorder was manifested amongst the tribes 20 miles to the south, and upwards of

20 miles to the east of Fez. Though never of serious import it was, or it was made, sufficient to entail a period of extremely exhausting work to the Moorish reorganised troops. There was, however, no discontent such as rest and easy, careful, but considerate handling of the troops would not have allayed.

4. In general, the French policy continued to be of the utmost—indeed, often unwarrantable, and always disastrous in the public interest—complaisance with the Sultan.

Towards the end of March M. Regnault, the French Minister, arrived; and with a celerity and secrecy and by methods unheard of even in Moorish politics, a treaty was signed on the 30th March, by which the Sultan acknowledged Morocco, subject to certain reserves as to the Spanish and Tangier zones, to be a protectorate of France.

5. Speaking generally, this treaty was, *mutatis mutandis*, a copy of the Treaty of Bardo; but how the arrangements for Tunis reasonably could be those most proper for a country so very different to Tunis in many ways as Morocco is, I have never been able to learn from any—even French—source. It is difficult therefore to avoid the conclusions that this form of protectorate was adopted not for its appositeness to the requirements in Morocco, but because of its being of a model so near to pure annexation, and the advantages it might give France in the negotiations about the Spanish and Tangier zones.

6. The instant celebration of that event; the instant promulgation and enforcement of military changes by which the Moorish troops were made part of the French army of occupation, and by which their pay, duties, food, loads, &c., were all affected to their disadvantage; the mutiny and massacre of various officers and civilians, Europeans and Jews; pillages of Fez itself; sack of the Jewish quarter, need not be retold.

7. Three features of the outburst have become even clearer with time, namely:—

- (1.) Its utterly premeditated and (however violent) unorganised character; and
- (2.) The importance to the Sultan, and to the remaining Europeans, of the Jewish quarters having, so early in the revolt, provided so defenceless and rich a prey as to concentrate the bulk of the insurgents upon it; and
- (3.) The loyalty, or, at any rate, immobility, of the great mass of the population. (Over and above the rifles and ammunition taken from Moorish soldiers, some 30,000 fire-arms with abundant ammunition for each, were surrendered by the general public of Fez), and the courageous fidelity of many Moors in concealing Europeans and Jews.

The measures for the relief of the Jewish inhabitants, and an account of their present state will be found in the Relief Committee's report, of which I beg to enclose a copy herewith. Their case was so extremely distressing, and the responsibility for it so directly French, that one cannot but be surprised that no Indemnity Commission has yet been appointed, nor any payments to account made by the State, such as would have assisted the inhabitants to resume their businesses. For subsistence and restoration to means of gaining a livelihood they have been left already for nine months solely to the benevolence of sympathisers in Morocco and abroad and their own efforts.

But for these three circumstances it is difficult to imagine how either the Sultan or the remaining Europeans (other than those who might have been hidden in friendly Moors' houses) could have escaped, and, in the Sultan's person, would of course have fallen the one recognised authority in the whole country. It is quite true, of course, that the anti-French feeling caused the outburst, but it is difficult to imagine that the mobs of soldiers and civilians of the lowest orders, once free from all check and maddened by success, would have refrained from killing and pillaging other Europeans, and even many of their own people, especially officials.

Some very good photographs of scenes during the mutiny have lately been published, and, in case they may be of interest as records, I beg to enclose a set of them herewith.*

8. As regards the repression of the revolt by the French garrison troops, the extreme, indeed the passionate, ruthlessness and (latterly) deliberate dilatory severity used are easy to understand, but the impolicy of these measures was soon seen in their disastrous effects. All insurgents who could do so fled from the place and thus carried the movement into the tribes, just then fairly quiet, and inflamed them to frenzy with stories of wholesale daily executions, &c., by the French.

* Not reproduced.

Their other measures: proclamation of "état de siège" after the disorder was over; disarmament, under threat of bombardment, of loyal as well as disloyal citizens; demand (subsequently withdrawn) of an indemnity of 200,000 dollars from the city; and the setting up of French courts-martial for the trial of natives, have all been fully reported, and are now mentioned only to keep the present general narrative clear.

9. For some months concurrently with these events friction between the French military and diplomatic elements had been constant. Into all the reasons of this it is beyond the limits of this report to go. The vital difference, however, was over the Sultan. The French Minister, for his ends, resented all interference with the Sultan. The Military Party, embodied in General Moinier, resented the Sultan's interference with the tribes, and extortions from them after the general had come to terms with them, and in consequence of which terms they had become quiet. On the other hand, the military people drove their army plans along apparently without the least consultation with the French Minister as to their possible political consequences. These were "military" matters exclusively, and so forth.

When the mutiny occurred the quarrel rose to boiling point. The military said it was all due to M. Regnault's complaisance with the Sultan, and the latter's treachery. M. Regnault retorted that it was all caused by their senseless haste and bad plans about the Moorish troops!

10. The problem then presented to the French Government was how to put an end to this state of things and ensure prompt restoration of order. For this purpose it was clearly necessary that the supreme direction of both civil and military affairs should be vested in one person, and they chose General Lyautey. His extraordinary gifts of political tact, administrative skill, military ability, and sheer force of "character" were well known, and the event, in the unanimous opinion of all who came into contact with him, showed that the choice was singularly satisfactory for France. Indeed, it would be no exaggeration to say that in this one act the French Government saved what may be called the life of the situation here. There, however, unanimity of opinion stops.

11. Here, except amongst the most excited members of the French colony, it was expected that General Lyautey would come out as ambassador and commander-in-chief. The Protectorate Treaty would be communicated to the Powers, and, when recognised, General Lyautey would be transformed into resident-general. This course, at once traditional to begin with, and capable of being made intelligible progressively later on, to the Moors, would have tended to allay the dangerous excitement in Morocco, and would have placed General Lyautey in an unquestionably regular position *vis-à-vis* of the Powers, which for all the practical needs would have been equivalent to that of a resident-general.

An excellent precedent, that of Marshal Martinez Campos, sent as ambassador and commander-in-chief from Spain in 1894, existed in the matter.

12. It was obvious that the functions peculiar to a resident-general could not conceivably be exercised for many months at least, until general order had been restored, and the régime for them had been created. In the meantime these attributions could only be an incumbrance to whomsoever held them, by the invidious position in which they placed him towards everyone—Frenchmen excepted—with whom it was all important to be at once on as clear and as regular footing as possible. So far as I have been able to learn, the course taken was not due to General Lyautey himself. The decision to create a resident-general was first taken, and then the French Government, in effect, said to him, "Here is a great mess in Morocco, we desire you to take the post and do the best you can!" Without detailed instructions, even without adequate information—for indeed, as was seen afterwards, the French Government itself had not yet received adequate particulars—he was immediately sent out, and left to discover thereafter the real state of affairs. Under all the circumstances the inference was drawn, intelligibly enough, that the real reason for this strange course was that the French Government desired, so to speak, to "turn into hard cash," or effective value, instantly, at the expense of no matter whom, the supposed gains of France by the Protectorate Treaty.

13. The situation was particularly difficult for the foreign consuls, especially the Spanish ones, connected with it. Some of the latter were held by their Government to have gone too far in their attentions to General Lyautey, and incurred censure. Thereafter two of them (Mazagan and Mogador) took an aggressive attitude against him and were recalled!

14. During May, while the situation in Fez itself continued to improve, it

developed for the worse with great rapidity amongst the tribes to the north, north-east and east, culminating in a furious attack upon Fez on the 25th-26th May—so successful that the rebels for several hours possessed about a third of the city—and what seemed likely to prove a still more dangerous assault on the 28th May. This latter effort, however, thanks to the dispositions made by General Lyautey, who had arrived on the 23rd May (and who was followed by reinforcements enough to bring the total forces up to about 8,500), and of Colonel (afterwards General) Gouraud, who was then placed in command, could not be pushed home. The assailants retired during the night, and, on the eve of a third effort, their camp was captured by General Gouraud on the 1st June, on which occasion the British military instructor, Mr. William Redman, was killed.

15. Happily the tribes to the north-west and west of Fez remained fairly steady, and there was throughout less interruption of couriers and caravan traffic with the coast than was anticipated.

16. The extraordinary skill and energy which General Lyautey used towards regaining for the French the confidence of Moors both here and throughout Morocco, and the success which attended his efforts need no fresh rehearsal in detail, but his main principles may be mentioned; namely, the immediate replacing of Moorish functionaries in the duties from which they had practically become ousted by the French military; the suppression of capital punishments and French courts-martial upon natives; and the reorganisation of the remains of the Moorish troops: all this on the one hand, and, on the other, his refraining from then and there promulgating "protectorate" edicts drafted at Paris.

17. The Sultan, Mulai Hafid, on his part, was in no less a hurry to realise his profits out of the protectorate bargain than the French Government had been on theirs. He insisted, no matter at what public inconvenience, on abdicating at once, and beginning to collect the allowances and "considerations" to him provided for that contingency, and the enjoyment of the huge fortune he had more or less secretly been accumulating ever since he came to the throne, and to make a trip to France. With much difficulty General Lyautey got the abdication deferred for three months, as also the cancellation of the arrangements made for the succession of an infant son of the Sultan, and, simultaneously with M. Regnault, he departed on the 6th June for the coast.

18. The only one of General Lyautey's own measures which evoked any adverse criticism was his disposal of the remains of the Moorish troops. These—even some regiments which had shown conspicuous loyalty—were all disbanded. They numbered under 2,000 in all, with the exception of the Sultan's negro guards, some 400, who remained as before. They were then voluntarily re-enlisted on the same terms as Algerian soldiers, and gave an oath of allegiance to France as well as to the Sultan.

With most of the men it was a question of earning a livelihood and the oath to France—perhaps unavoidable in view of a protectorate having been assumed—caused some bitterness. Nearly all the men were then sent to Shawia.

19. The remaining local preoccupations of General Lyautey until his departure from Fez on the 25th July related to arrangements for the government of the district, for the next few months, at any rate, and also some more permanent plans. These plans have since been put into practice, and will be treated of in the course of the description I shall give hereinafter of the régime now obtaining hereabouts. (See paragraphs 39 to 62 herein.)

20. When Mulai Hafid abdicated the French supported the candidature of Mulai Yusef, long a favourite of theirs, and, by general admission, the most eligible in all respect of the sons of the Sultan Mulai Hassan.

Mulai Yusef was peacefully acknowledged in all the law abiding parts of Northern Morocco and in the coast areas of the south, and subsequently betook himself to Rabat and the south.

He appears to have accepted the French position quite contentedly, has no personal enemies, is of decent habits of life and pleasant manners, shows exemplary Moslem piety, and gives no trouble to anybody!

His position and the attitude to him of the French will be noticed hereinafter in describing the present régime. (See paragraph 33 herein.)

21. It would be merely tedious to tell of the various small military expeditions to put this, or that, tribe hereabouts into better behaviour, or prevent the spread of agitation. Such active disaffection as there is now, is, as regards the south, the east and the north-east, kept up by three tribal agitators; Sidi Raho, Bu Hamara

(who, we must remember, is Bu Hamara the Second) and the Shereef Hajami. Of late months they have shown no coherence, and seem able to do little beyond snipings of French camps and maraudings of submitted tribes and of the vicinity of Sefrou. Meanwhile, the city defences have been greatly strengthened by the erection of a number of small forts on suitable heights, which command both the approaches to the town and the walls themselves, and are practically impregnable to an enemy without artillery. Between these forts, and around the city generally, the roads are in course of improvement, and aready are nearly all fit for wheeled traffic, including transport of guns. The road making is done by convict labour in some cases, and by local contracts in others.

22. One other element introduced by General Lyautey remains to be noticed; namely, his attitude towards foreigners.

23. Perhaps, from modesty in some cases, and certainly from political motives in others (*e.g.*, the Spanish consul) most foreigners were almost as aloof towards the new set of French as to their predecessors. From foreign residents, however, who showed interest and sympathy in his difficulties, General Lyautey was most open to gain both information and suggestions, and to explain his own ideas with the greatest clearness. These ideas inspired confidence in all those who heard them, and this confidence spread very rapidly to the Moors of the place. The latter, very naturally, in the bewilderment of those times, being much impressed by the opinions such foreigners had formed.

24. This attitude was the more appreciated, doubtless, following as it did the mystery in which General Lyautey's predecessors—both civil and military—had been wont to shroud all their intentions, and which had raised deep suspicions in every quarter.

25. On every possible occasion, to Frenchmen, as well as to Moors and foreigners, General Lyautey vehemently inculcated the doctrine that France was not acting for herself alone, but was the mandatory of all the Powers—Morocco included; that she was bound to, and meant to, uphold the interests of all, and that every enterprise—from what country soever originating—which brought capital and intelligence to Morocco, added to the wealth of all and would get every encouragement which its own merits deserved. About all spheres of work in which foreigners had engaged usefully in the interior, and of the great part they had taken in improving the attitude of Moors towards Europeans, especially in philanthropic ways, General Lyautey spoke invariably in the most appreciative terms. It may have been noticed that the other day, when leaving Bordeaux on his return to Morocco, he again spoke publicly in the same sense, dwelling on the responsibilities of France towards the foreign merchants of Morocco, particularly as regards the provision of port and warehouse facilities.

26. Time alone, of course, can show to what extent these principles will be carried out. That General Lyautey himself is perfectly sincere in them I have no reason to doubt, but the fact cannot be ignored that the inclinations of French Colonials of all sorts, and of the great majority of the officials, through whom France must act, are all of sympathy with privileges for the French in every case, rather than of general equality of opportunity for everybody.

PART II.—The Protectorate in the Making.

The Central Government.

27. As has already been stated, the model of protectorate selected by the French for their zone in Morocco, was that of Tunis, and that of Tunis is the form which, when most fully developed, most nearly approaches annexation. In support of this choice it is urged, I believe, that it is the method which the French already understand; that, by the directness of responsibility which it entails to the French Government, greater security and inducement are offered to financiers to provide the capital for the various services and enterprises necessary to develop the country. It was held also that the personnel of the existing administration was incorrigibly corrupt, that there did not exist any class of Moors from whom suitable officials for really responsible duties could be recruited, and so a very close system of supervision was unavoidable. Moreover, French opinion, or temperament, or the exigencies of their political and economic situation, apparently take certain desiderata as indispensable: namely, the results must be as immediate as possible; they must provide an immediate profit, or interest on the outlay entailed; they must connote no such loss of life of French

troops as will make Morocco unpopular in France, nor any such large employment of troops as will seriously strain the general military position of France at home and in her colonies.

28. Such, so to speak, are the general indispensable conditions imposed upon General Lyautey as from France. Whether or not they are compatible with the hard facts of the problem as it presents itself on this side, may be judged by an examination of the political conditions on the spot.

29. Approximately the population may be put at 7,000,000 or so. Of these, perhaps, 500,000 are dwellers in the towns, live in a certain degree of civilisation, and are amenable to authority, and industrious. Some 2,000,000 are Arab tribesmen living primitively in fertile areas near the towns and along the western coast, and traditionally more or less submissive to authority, as tested by their paying of taxes. These two elements occupy at most no more than a third of the country. The remaining 5,000,000 are the wildest tribes, mostly Berbers, inhabiting the rest of the country, never submissive to Government, highly excitable, and of predatory habits, and intensely jealous of foreign intrusions anywhere in Morocco. They occupy the vast mountainous areas in the centre, the desert areas to the east, and the Sous country to the south. From time immemorial these "unsubmitted" areas have been the nurseries of every movement which has upset successive Moorish Governments or dynasties. This has been still more the case during the last thirteen years, and any student of Morocco affairs who minutely examines the course of recent events (*e.g.*, the European ways of Mulai Abdelaziz, the Bu Hamara rebellion, raised amongst Berbers, &c., the Berber support at first to Mulai Hafid, the Berber rebellion when he, too, became at once too exacting and too "European," and so forth, down to Mulai Hiba and the present Bu Hamara agitation) cannot fail to perceive that the great problem of Morocco administration is how to develop the "submitted" areas without convulsing the "unsubmitted" ones, and thereby causing alarms, raids, and disorders, amongst the "submitted" ones.

30. I should like to call very close attention to this (as seen here) all important fact, for the blindness of the French to it, and to all that it implies in the course of administration has, I think, been the root cause of every one of the misfortunes which they have incurred hitherto, and which will, in all likelihood, be the same in the future if due regard be not had to it. (See sketch map, Enclosure No. 3 herein).

31. Had the reform of Morocco been ours to deal with, I imagine that from 1904 onwards, or, at any rate, since 1908, since when there has been no internal interference from foreign Powers; we should have proceeded on wholly different lines and methods to those which the French have followed.

32. Attention would have been confined to the political problem exclusively. A very few men—but those of exceptional ability and width of view—would have been sent to the Moorish court, have ostentatiously, but surely, through the Sultan, brought by degrees some kind of easy fitting regularity into the army and finances. The army, especially under judicious management could easily have been made a most popular institution. Some system on Moorish lines by which the Government would have come to feel more constantly the Sultan's eye upon them, would have been introduced. Tracks would have been, however roughly, improved and kept fairly safe, facilitating both military operations and trade, and every change would have been given an entirely Moorish appearance. Schools and hospitals would have been created in the towns, and the latter especially would have irresistibly attracted the good-will of the tribes-people. The chief of the leading Berber tribes would have been carefully managed, and their non-interference ensured, perhaps, by some system of subsidies or other methods such as are used on our Indian frontier. The Government would gradually have become stronger, and such security would have followed as would have permitted general trade and economic enterprises—even State services, such as irrigation, railways, &c., to develop themselves. Foreign interests would have been conciliated by the State's voluntarily adopting adjudication methods for public works, contracts, &c., affording free opportunities for all nationalities, enterprises, our merchants, financiers, &c., being left to come by their shares for themselves, which they would assuredly have done here or elsewhere. The greatest care would have been used to secure the good will of the masses—however ignorant—of the Moorish population, and to be towards them as their protectors from the oppression of the Moorish Government.

33. This is all, obviously, somewhat of a mere presentment of British methods and ideals as compared with French ones, and I hope may not seem out of place. In practice both schemes of policy end by the disappearance of a bad administration and the creation of a good one. Whether either succeeds, or can succeed, in gaining the

inmost sympathies of Moslem populations may be doubted. The British one costs much in time but relatively little in life or money. The French one costs much money and considerable life, but relatively little time.

I gathered from General Lyautey that had the choice of system lain with him he would have preferred some such plan as we have followed in Egypt, but, that being now impracticable, he meant to try to make the Sultan as real and as dignified a potentate as possible in his subjects' eyes, as we do with the princes of protected States in India.

34. The point, however, which most disquiets non-French observers is that the French, although adopting of their own choice the Tunisian methods and ideals, always seem to think that they should be compensated ultimately in the form of privileges and profits of all sorts for the sacrifices the French plan entails, and this, of course, foreigners may be expected to resent.

35. The protectorate régime adopted, as regards its superstructure, consists of three great departments, *i.e.*, the civil, the military, and the resident-general's own, for the supreme direction of both.

36. As regards supreme government, there has been little or nothing of what we mean by reform. A totally new régime has rather been planned, which, as fast as it is put together, absorbs one after another of the Moorish offices; and when the new régime is complete all that will remain of the old one will be the Sultan, with his household, and the Grand Vizier. The rôles of the Sultan and the Grand Vizier will be merely ceremonial and perfunctory. To them, at various parts of Morocco, may be added the khalifas (the present ones and the new ones, *i.e.*, the one for the Spanish zone and the one for the Tangier zone); but the present ones' duties are so purely decorative that, once the new régime is thoroughly established, they too will presumably disappear.

37. When General Lyautey was at Fez his own department and the military department (and that only partially) were the only ones which had come into existence in a formal or practical way. How far, precisely, the civil department and its numerous sub-departments have been organised, or how they work, I have not yet had an opportunity of observing, the whole central régime having been at Rabat since its proper construction was begun.

38. To give as full, but yet as concise, an idea as possible of the new system I beg to enclose herewith a chart showing the transformation already effected and the manner in which the new authority is exercised.* It will be seen therefrom, I think, how greatly the new system is, as regards the superstructure of Moorish government, an absorption of the old system and the creation of a new administration, rather than a reform and invigoration of the old one.

39. As regards the understructure of government, however, the same can scarcely be said. There—that is to say, where authority directly touches the masses of the population—the old order of things has (except in one way—namely, municipal services—at Fez, which will be described hereafter) been untouched, and the French have been content so far to leave the local Moorish functionaries doing their duties on the accustomed lines, and to exercise only such supervision and control as are necessary to prevent excesses and abuses.

40. This supervision and control is exercised through the Military Intelligence Department, the "Service des Renseignements," or "Bureau des Renseignements," some members of which form a department attached to each general and to each column, and which is popularly known as the "Bureau arabe," or, more shortly still, as the "Bureau." This is so peculiar an institution, and its functions are so various, so delicate and important, and go so far beyond those of military intelligence work as usually understood, that it may be well to describe it in some detail.

The "Bureau des Renseignements."

40. In the areas of Southern Algeria, the tribes of which are still under military government, it has long been customary for the military intelligence staff of each commanding officer to be the intermediaries between him and the tribal kaïds and sheikhs, in addition, of course, to the ordinary duties of intelligence officers.

41. It is not, however, a special branch of military service, the officers appointed to it being merely "seconded" from their various regiments or different arms to it from time to time as occasion requires. It does not seem to be a popular service, or coveted by most of the officers. Judging from those members of it (and they are now

* Not reproduced.

pretty numerous) I have met, they appear in general of two classes—the one precocious and the other elderly for their respective ranks, apt to be rash and overbearing in the one case and ultra-suspicious and cantankerous in the other. All round they seemed, especially at first, very unfitted by temperament and experience for the duties which fell to their lot here. In fairness, however, it must be explained that this may not be due to the officers themselves, but merely to the assignment to them of duties for which their whole training afforded no special education. Their experience, both as of civilians and of soldiers, had been solely of Arabs long inured to French rule and French military ways and ideas, and to authority generally, and towards whom the tact and *bonhomie* indispensable for commencing the management of people so untutored, independent, and antipathetic as many of the Moors, had never been called for, and thus never learned. Such knowledge of Arabs as they had was therefore often of more harm than good, as it made them self-opinionated and unobservant of the great differences of conditions—racial, political, military—between the Moors and the Algerians or Tunisians.

42. The tragic failure of the French in regard to the Moorish troops was unquestionably at root due to the instructors selected latterly being so invariably men of the types and imbued with the ideas and failings so constantly observed amongst the "Renseignements" officers.

43. At Mequinez, and amongst the tribes adjacent thereto, both having, in effect, submitted to French arms in 1911 once and for all, the Algerian "Renseignements" system worked pretty much as in Algeria. Especially in the town, so much better was the system than its purely Moorish predecessor, that the bureau gained at first even some popularity.

44. At Fez, at first, the bureau restricted itself strictly to its military intelligence duties, but was beginning to encroach a good deal on the Moorish local authorities. The utter breakdown of the latter, due, the military said, with much reason, to the Sultan's corruptness in appointments, and the French political complaisance therein, led, in the event, to the practical acquisition of all authority by the bureau.

45. The senior military officers being entirely preoccupied with purely military work, the bureau officers were left free to lose their heads and their tempers, which they did to no small degree, and the result of their furious excesses in repression was the dangerous extension of the outbreak from the town to many of the tribes around, leading up to the dangerous attacks on Fez during May, all herein already mentioned.

46. At Fez itself, had suitable personnel for it been available, some simple system of civilian European supervision might fittingly have been introduced at once and permanently, thus averting the necessity of changes in the future. The "Bureau des Renseignements," however, offered the only immediate means of any sort, so General Lyautey reorganised it once. The country duties were assigned to one set of officers, and the town ones to another set.

47. For the latter, two officers (Captain Mellier and Lieutenant Sciard), formerly instructors of the Franco-Moorish Police at Tangier and Mazagan, with some tincture knowledge of Morocco conditions, were selected, and by their better experience and persuasive methods have already greatly improved public feeling towards the French.

48. The calls made upon them are not modest. These young officers (and the same applies more or less to all "Renseignements" officers hereabouts) are expected to manage the municipal (or rural) revenues and expenses, draw up regulations as to markets, taxes, property, public order, prisons, public improvements; to be alternately guides to the Moorish functionaries and criminal investigation agents; to settle disputes and claims between the military and civilians; to contract for quarters for officers; to deal with the consuls (itself a thorny business when one remembers the complexities of the extra-territorial jurisdictions and of the protégé system, &c.); and to provide information and help about practically everything, from the phases of public feeling to the procuring of specimens of Moorish arts and manufactures for an exhibition in Europe; they must watch over Government properties, and investigate the pretensions of claimants thereto. In short, save as to settling disputes between civilian French themselves or between civilian French and other Europeans and the executive duties of military command and medical work, there would seem to be no duty which they may not be called upon to perform, or, at any rate, to advise about. Above all, they have to be, in a sort, schoolmasters or administrators to the Moorish functionaries.

49. All this obviously was (indeed, is still) far too much to expect. It might

fairly be asked whether any officer in Morocco (except, perhaps, General Lyautey himself) embodies even the majority of all these qualifications. The system broke down utterly, and little wonder. The "town" section, as reorganised, seems now, however, to be doing as well as could be anticipated, chiefly owing to the "student"-like attitude the officers have assumed. The town officers seem content to study and learn as a rule before coming to conclusions and taking action. No small share, however, in such success as the Fez Ville "Bureau" has had is attributable to a lady—known in native parlance as "Madame Bureau"—namely, Madame Mellier, wife of Captain Mellier. She speaks Arabic well, and has been both skilful and untiring in ingratiating her husband, his colleagues, and herself amongst all classes of Fez Moors.

50. The pity of it now is that in two or three years' time, when they have thoroughly learned their duties as "Renseignements" officers, they will, presumably, be displaced by sets of civilian European officials, who in turn will have their qualifications to acquire and their duties to learn.

51. With regard to the Fez *banlieue* (the country) section of the "Renseignements," the result of the reorganisation, so far as I have been able to see it, seems less satisfactory. One constantly hears—though in a less degree than formerly—of the officers' harsh manners with natives, and of their ultra-suspicion of foreigners and protégés. They seem, on the other hand, susceptible to flattery and attentions from the country officials; are seldom good judges of character, and appear to be unable, or afraid, to exert salutary influence over them. There can be little doubt that these country officials exploit the bureau's protection of them and need of them, and that consequently the minor abuses of rural Government have probably rather increased than diminished of late. This is undoubtedly the weakest spot of the French system. Being itself so weak in force the old Makhzen was often very adept—even cunning—in the management of tribes. Speaking generally, the French officers show no such gifts. They are apt impatiently to look to force to gain their ends, and the result with such men as Moorish tribesmen not infrequently is to stupify and madden them rather than to impress and terrify. The comparative failure of the "Bureau des Renseignements" and of French military methods with recalcitrant tribes naturally suggests the whole problem of the future Government of Moorish tribesmen, a question of vast importance when one considers how great a proportion they form of the total population, and the large areas they inhabit, but this will more properly be discussed hereinafter when examining the general outlook.

The Fez Municipalities.

52. The case of Fez presented a problem, which, while of special importance and delicacy in respect of the city's position as a Moorish religious and political centre, and for the repercussion proceedings there are apt to have in the rest of the country, was somewhat simplified by the fewness of civilian Europeans it affected, and by (fortunately) General Lyautey's predecessors having left it alone.

53. Some municipal scheme had been drawn up previous to his arrival, but its main and immediate object—quite avowedly—was merely to get control, plausibly, for the French, of the local revenues, with the minimum of trouble with the Sultan, Mulai Hafid, into whose pocket they were still pouring.

54. Before General Lyautey left Fez he had a scheme drawn up for two municipalities—one for the Moslems and one for the Jews—elected by their respective notables, but in which various native functionaries sat *ex officio*. The official and elected elements were almost even, but the elected were in a slight preponderance in the Moslem one; for instance, there are eight elected and seven official members. The voters and the elected members might be foreign protégés, and, in the event, the members elected comprised several protégés, including two British ones.

55. The scheme was discussed beforehand minutely with leading residents, and, very particularly, at General Lyautey's request, with myself; and good-will was attracted to it in advance.

56. The plan, so far, has worked admirably, and the French seem, conscientiously, to be making it a real measure of municipal self-Government. The work accomplished already—services inaugurated for street-cleaning, prisons, street-lighting, superintendence of markets, and the like—have met with great public contentment.

57. The only direct supervision exercised is by the general commanding the region, whose delegate, Captain Mellier of the "Renseignements," attends the council's meetings in a consultative way.

58. Relations between the municipalities and the Sultan are conducted through the general and the resident-general, and the course of events has shown that the general regards himself very largely as the advocate representative of the municipality's interests in those quarters.

59. The only disquieting tendency observable is that of trying to go too fast in everything, and, curiously enough, this is more visible amongst the Moorish members than amongst the French supervisors; the former show little disposition as a rule to pay much regard to Moorish susceptibilities. The further developments contemplated by the municipality include elementary schools, hospitals, street paving, electric lighting and power station, water supply purification, drainage, liquor traffic (regulation of in Jewish quarter, and prohibition of in Moslem quarter), and supervision of administration of charitable endowments.

60. Full accounts of the question of municipal taxes, and discussion of the foreign interests to be safeguarded in this connection, as also with municipal developments generally—particularly as to schools—having already been given in my reports to His Majesty's Legation, mention of these matters need not, perhaps, be made herein any further than to say that they have had, and will continue to have, close attention, towards ensuring ever increasing facility for development of trade on the basis of equality in treatment and opportunity.

General Gouraud.

61. Such success as has, thus far, attended the measures taken at Fez must, however, be attributed in no small degree to the choice made of the chief officer to carry them out.

62. In every quarter—French, Moorish, or foreign—opinion is unanimous about General Gouraud's having been pre-eminently the right man in the right place. Of his singular military gifts, his position as a major-general at no more than 44 years of age, after upwards of twenty years, almost continuous rough colonial fighting (French Soudan, French Congo, Senegal, Mauritania, and Morocco), affords pretty clear evidence, but it is not necessarily suggestive of the other qualities he has displayed in spheres where his experience could not help him, and wherein he has had to rely mainly on good-nature and common sense. His quiet modest ways, his ready ear for information and suggestions, his accessibility to everyone, the tact and perseverance, frankness and sincerity he has used, have gained him the good-will and respect (and often affection too) of all with whom he has had relations. He may fairly be called at once a pupil, an imitator and an enthusiastic devotee of General Lyautey, and the latter is to him the most admiring of masters. Whether his mind is such that he will ever rise to General Lyautey's astonishing degree of versatility of equal success in all manner of quite different directions, remains to be seen. What, however, is very clear is that he is much broader minded (is much less obsessed by purely French "military" views) than the great majority of French officers one meets, and yet is, admittedly, the hardest and most skilful fighter of them all. Altogether it is, therefore, not surprising that all who know him expect General Gouraud to rise very high indeed in the French service, particularly in Morocco. I venture to mention all this thus fully as General Gouraud's career and prospects are, probably, little, if at all, known in England, while at the same time he may possibly have some influence upon British interests in Morocco in future.

The Administration of Justice. Keeping of Public Order.

63. As regards the administration of justice in the Moslem Law (Shraa) sense, the native régime remains unaltered. Pursuant, however, to a recent order from Rabat, the kadis, as well as certain other Moorish functionaries, are not themselves to imprison anyone, but are to send offenders to the Basha with a note of their offence and a suggestion as to the proper punishment, which latter will be carried out, modified or rejected at the Basha's discretion.

64. In the other direction—that of offences against public order—the first steps taken by the French protectorate authorities appear, however well meant, strangely inadequate.

65. The Basha and his deputies have to keep registers of all sentences inflicted, and they are inspected daily by the "Bureau des Renseignements" for criticism, but not for modification in any case. If the offence be a capital one, or the Basha thinks

it deserves more than twelve months' imprisonment, it is remitted for the Sultan's considerations through the bureau, the resident general and the Grand Vizir. Fines are all to accrue to the State alone, as all officials now receive salaries.

66. The absolute novelty (in Morocco) herein is the introduction of a fixed punishment at all, and is, of course, an improvement. All that is secured, however, is that nobody will get from a local official—even if he chance to be innocent—more than twelve months' imprisonment!

67. The instructions from Rabat, so far, have contained no sort of classification, however approximate, of offences, with respective punishments, for the Moorish functionaries' guidance or the bureau's, and there is absolutely no provision, however tentative, against the commonest abuse of all—that of the real offender "squaring" the Moorish functionary and being acquitted. The Moorish practice of flogging to extract evidence is also left untouched. The object alleged for this manner of treating the problem is "indesire to interfere with the Moorish authorities' discretion or dignity in the eyes of the public."

68. How the Moorish functionaries' dignity would have been compromised by their getting, privately, a proper—however elementary—set of instructions from the Sultan for their guidance, and acting upon them, seems hard to understand.

69. In practice the very opposite is, naturally enough, happening. The native functionaries, in bewilderment, inflict such punishments just as fancy indicates. The bureau officers have neither the knowledge to instruct them nor the power to correct them. The sentences often incur much well-deserved, angry criticism and derisory comparisons with each other, and the injustice, being in a new form, is of course popularly attributed to the French.

70. The instructions in question were issued at the end of December and beginning of January—i.e., during General Lyautey's leave of absence—and I can hardly suppose he knew of them. However that may be, their inadequacy is apparent to everyone here, and most of all to the French and Moorish officials themselves. It is to be hoped that General Gouraud, in the course of his present visit to Rabat, will get them amended, the more so that they were sent, not to Fez only, but to all towns in the French zone.

The French Army of Occupation.

71. To give a detailed description of the French army of occupation would be obviously beyond the scope of the present report, and proper criticism would, besides, require in the writer the necessary military experience and knowledge. Moreover, in "In Morocco with General d'Amade," by Major Reginald Rankin (Longmans, Green, and Co., 1908), an excellent account of the French forces in Morocco is available.

72. But it may not be unfitting to give some general ideas on the subject—ideas in which there is a pretty unanimous consensus of opinion—at any rate, outside the French forces themselves—and which are submitted only for their connection with the development of the protectorate régime, and which involve political considerations—possibly even dangers—of much importance.

73. The total of the forces employed for all Morocco is under 60,000 of all ranks. Of these, perhaps 10,000 are Europeans, and this 10,000 includes the officers. The non-Europeans consist mostly of Algerians and Tunisians (both Mahomedans), and for the rest the so-called Senegalese; the latter are of mixed religions or pagans, and are recruited from French West and Central Africa. Apparently the metropolitan forces (which include Algeria and Tunis) cannot spare more troops for Morocco, and so additions can now only be got slowly by raising and training battalions of blacks from Senegal and the French Soudan.

74. The Algerian and Tunisian regiments contain a sprinkling of Europeans, besides their officers. The Senegalese, however, have no Europeans in the ranks, and are, admittedly, somewhat under-staffed as regards European non-commissioned officers. The Senegalese are exceedingly good for certain very rough work—with the bayonet, for instance—but are very excitable and disposed to excesses of savagery when fighting. They are very susceptible to cold, and so are little use for winter work, especially in mountainous regions.

75. Altogether, a military body so non-homogeneous as the French army of occupation cannot but be a somewhat delicately balanced machine, and later on, when the Algerians and Tunisians feel more at home, there may be a tendency for them to be somewhat demoralised by their Moorish environment, the more so that they will probably be largely recruited in Morocco in the future. When that happens the problems which arose in connection with the Moorish troops will again present

77. Hereabouts the first part of such military development will, presumably, be the subjugation of the tribes between Fez and Taourirt; i.e., the Taza tribes inhabiting the area left uncoloured on the enclosed sketch map (Enclosure No. 3), and by means of which step lines of military and commercial communication would be established right across Morocco. This would mean in practice the resurrection of the old "Sultan track" from Algeria to the Atlantic, organised by Mulai Ishmael (1670-1727). All along this route that Sultan inserted colonies of Arab tribes between the Berbers, to police the roads. Though run somewhat wild, especially these last twenty years, those Arab tribes still exist, and a skilful use of them might make the French task a much easier one than would at first sight appear to be.

78. The largest of them is Hiayna, a pear-shaped area the stem end of which reaches to within 22 miles or so west of Taza. On the east side, almost up to Taza itself, the country presents no serious difficulty, so that the problem may be reduced to the pacification of an area about 30 miles long and 20 broad between Hiayna and Kasbah Msun.

79. The chief desideratum in this connection seems to be not to attempt the extension too soon; for instance, not before roads, railways, &c., are sufficiently developed to enable Fez and Taourirt, and not Rabat and Oujda, to be the bases for the Taza operations.

80. The general health of the troops is reported to have been much better during the past year—less enteric and dysentery in particular, which is attributed to better sanitation of camps and barracks, increased hospital accommodation, and the improved conditions generally which the time has allowed to be provided.

81. Of the discipline and general behaviour of the troops hereabouts one hears very few complaints from the public. Indeed I doubt whether wholly European troops of any nationality would behave better.

82. One feature of the French military here has surprised most old European residents in the country, namely, the very small proportion of cavalry. The latter exist in a proportion of only about one cavalryman to perhaps fifteen infantrymen and artillerymen, and are used for scouting and patrolling almost exclusively. In active operations the bulk of the work is done by artillery and machine guns. This ensures victories, but has the unfortunate result that the enemy invariably get away. Practically no prisoners are got (far fewer, for instance, than the old Makhzen troops used to capture), and the lack of prisoners puts the chiefs of the troops at great disadvantage, both as to acquiring information and bringing the attacked tribe into control and ensuring its good behaviour.

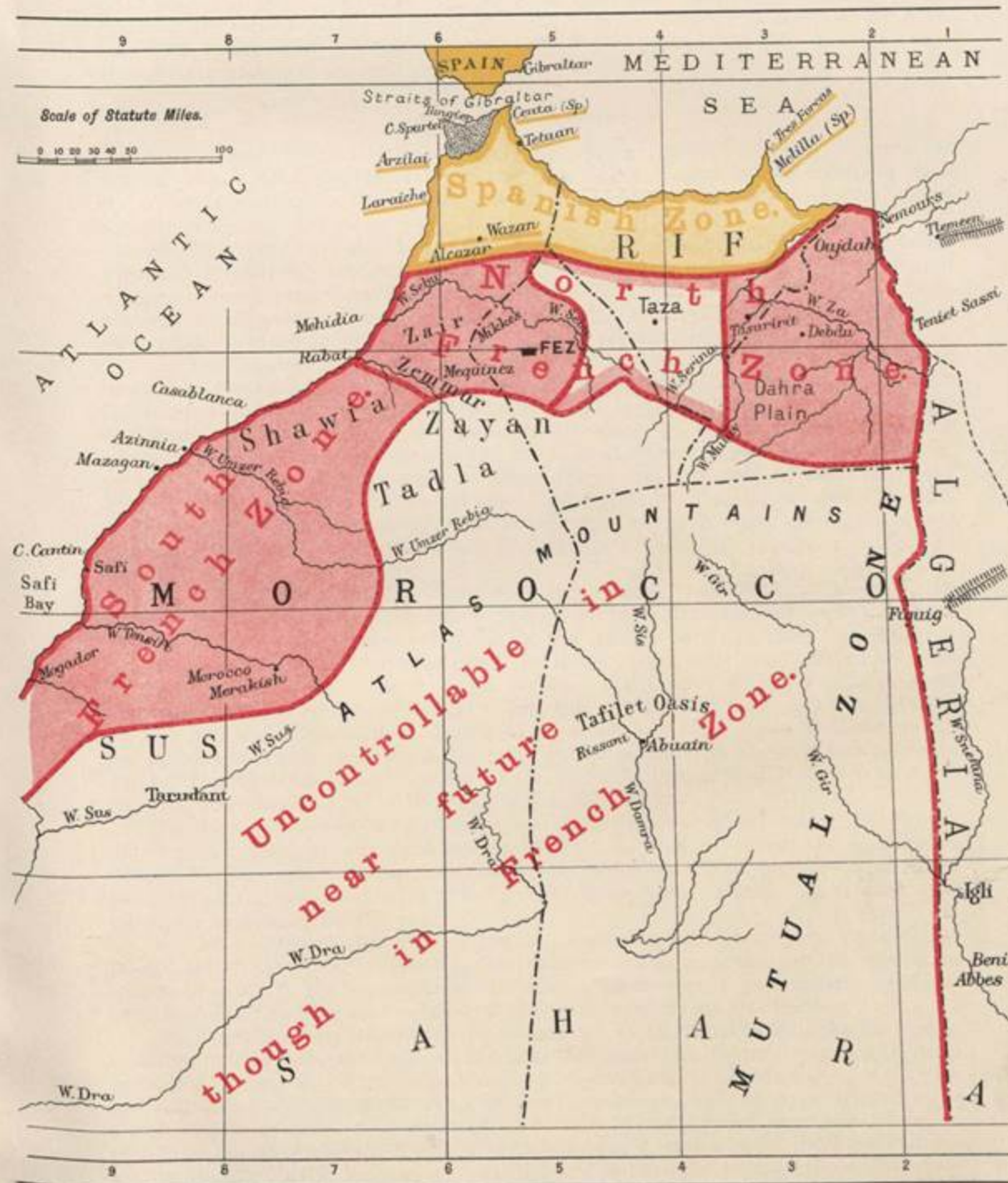
Financial Policy and Administration.

83. As in no department of Moorish administration were mystery, confusion, waste and peculation more rampant than in finance, and, as in no direction was the ingress of foreign influence more stubbornly resisted, it is both natural that the results of the new régime's efforts in this correction must be the slowest to be attained, and that there is, as yet, comparatively little to relate in a very definite way on the subject.

84. The following observations, it will be understood, are not an attempt to deal with Morocco finances—or even the French protectorate finances—as a whole, for the data necessary to such a study are not available here; the data indeed being, probably,

SKETCH MAP
OF
MOROCCO.

Sub-Inclosures No. 8 in Consul Macleod's Despatch No. 1. FEZ. 7/3/1913. Pol. Confai



still in course of collection at Rabat. My object is merely to describe the financial part of the "protectorate in the making," and to show its working as between the new régime and the population affected.

Town Finances.

85. As regards local finances in towns, these are now either administered by municipalities, as at Fez, or by the old Moorish régime, as a Mequinez, but, in both cases, under the supervision of the "Bureau des Renseignements." I have no particulars of those of Mequinez, but in the case of Fez they are already, in spite of unusually bad trade, yielding from 40 to 80 per cent. or so more than formerly, whilst at the same time the services for which they are levied cost about 30 per cent. less than before, and all this notwithstanding (or, perhaps, largely because) that the officials concerned are well paid.

Country Finances.

86. In regard to local tribal finances, no proper régime had been in work for several years. All that happened was that the Sultan made arbitrary demands upon the tribes from time to time, which were collected by the kaïds and paid over to him directly or through his vizirs.

87. The posts of kaïds were bought by them from the Sultan, and the buyer recouped himself by arbitrary levies from the tribesmen through the sheikhs of villages, who in turn bought their posts from the kaïds. Kaïds and sheikhs alike received no salaries, but were allowed to keep the sums paid to them as fines, or, more often, as ransoms for the release of accused persons from prison.

88. In Mequinez military region, where the French authority was earliest and most closely exercised, some investigation of these abuses was effected. The revolt indemnities once paid, the kaïds were maintained in their offices without liability to dismissal continually, and to purchase of their posts by others, so the harrassing levies from the tribes-people ceased, and the fines alone remained as the local officials' gains. The tithes on crops were to some extent collected, and handed over to the French authorities through the kaïds. Subsequently the kaïds, under French supervision, began making assessments for collection of the "tertib" (though whether this has actually been collected yet I do not know) from all persons save foreign protégés.

89. Subsequently market dues were introduced—collected also through the kaïds—but to what extent this is yielding results, I have had no opportunity of learning anything save that much difficulty and friction obtain in the whole matter—in some cases because the tribes affected had never paid such taxes, and in all cases by the unfitness of the kaïds for such duties. The object in view is to establish in each rural area a sort of local budget. Into this will go local taxes, and out of it will go the salaries of the native officials of all sorts, and other costs of Government. In addition to these local dues, the principal of which will be the "tertib," there will be the crop tithes, which will go to the Sultan's Treasury, as will also all fines. All this, however, is as yet in the most rudimentary stage.

90. As regards the Fez military region, owing to the troubled state of the tribes, nothing financial at all was done during the year (beyond, of course, the suppression of sales of posts by the Sultan and vizirs), but lately the tithes have been collected in some fashion, assessments for the "tertib" have been ordered, and market dues have just been introduced.

91. It is claimed that these latter are excessive and, in conjunction with the dues levied inside Fez, are causing hardship to trade; and the subject is now in course of enquiry by the consuls—the latters' *ressortissants* having been asked to pay these dues, and the matter being of serious interest to general trade.

92. There is a very general opinion—which I share entirely—that the institution of all these local dues just now is a mistake, and that alike for military and political ends, and (ultimately) for financial ends, it would have been wiser to take time for the study, very carefully beforehand, of local conditions, and to have framed some simple system by which proper officials (not merely kaïds) would have been placed in charge of the taxes, and the provisions of which would have afforded good grounds for asking the diplomatic body's assent to their *ressortissants* paying these imposts—particularly the "tertib"—for which the Powers' consent is necessary.

93. It will be remembered that the foregoing remarks only apply to Mequinez and Fez regions respectively, but I imagine that in other regions, except those of

Rabat, Shawia, and Oujdah (where the French occupation is of earlier date) the course of events has been much the same as at Fez. Even before the occupation of Fez and Mequinez, the Shawia and Oujdah regions yielded a surplus—after payment of local administration—to the Sultan.

94. Proceeding upwards to Government finance, the position seems to be that France, meantime, is affording to the protectorate the means of administration while the preparation of a budget is going on. All the protectorate (i.e., non-local) revenues which remain after meeting the charges of the loans go into the protectorate chest. The net amount which the chest will thus get was estimated at 19,000,000 francs, say 760,000*l.*; but it is thought that this sum, by the improvement in administration, will probably be considerably exceeded.

95. As to the expenditure side of the protectorate budget I am unable to speak, as I have seen no published figures, and the protectorate finance officials being all at Rabat, I have no means of learning the results, so far, of their enquiries.

96. The article entitled "Les Finances marocaines" (in No. 11 of "Le Moniteur du Maroc," Paris, the 15th January, 1913), which I enclose herewith,* gives what seems a clear and fairly authoritative account of the loan for developments of Morocco (300,000,000 francs = say, 12,000,000*l.*) for which General Lyautey calls; and very particularly the article describes the arrangements in regard to the liquidated debt, and the respective Franco-Spanish finance arrangements. It does not touch upon any arrangements as between either the French or Spanish zone and the Tangier zone.

Other Economic Developments.

97. *Roads.*—By the beginning of 1912 the tracks from Casa Blanca to Rabat, Mequinez, and Fez had been made into roads good enough for rough wheel traffic, at any rate in dry weather.

98. Although much hindered by the hostilities of the year, very substantial progress has been made in this connection. At Fez itself the roads round the city are now, with caution, fit for wheels, so also is the track to Sefrou—twenty miles—and, for several miles, the track towards Slas Hiayna and (eventually) Taza. The most important road constructed is, however, a section fifteen miles long in the hills between Bab Tewka and Zagota. The Fez Zagota section of this road has now been begun. With this and the sections west of Bab Tewka and the Fez—Mequinez road (now further improved), and which are expected to be completed within six months or so, are finished—wheeled traffic (including motors) will be possible from Fez to Mequinez and from Fez to Mehedia and Rabat. The Fez—Rabat journey (127 miles) should then be practicable in one day or one day and a-half, instead of five to seven days as hitherto.

99. I have called attention in special reports to the development of trade which these facilities may be expected to bring, and especially to the openings they offer for motor traffic of all sorts.

100. *Railways.*—Since last year the light military railway from Casa Blanca has been completed to Rabat. The Rabat—Mehedia, Mehedia—Knitra—Lalla Ito, Lalla Ito—Dar-el-Hamri sections are now in construction. The chief military engineer (Colonel Caloni), when here in December, expected that these sections would be complete by June 1913, the Dar-el-Hamri—Mequinez section by September, and the Fez—Mequinez section by December 1913. The general reports since then, however, point to some months longer being required, at any rate for the two last-named sections. By a traveller combining the railway with the Fez—Rabat road above mentioned, the Fez—Rabat journey should be feasible easily in one and a-half days in six months or so.

101. *River Sebou Navigation.*—Surveys were made by the French authorities towards ascertaining to what extent the River Sebou from Mehedia might be used for transport purposes. These, I understand, showed the practicability of barge traffic as far as Hajra Wakfa (about forty-five miles north-west of Fez), but, so far as I have been able to learn, it seems to have been concluded that the light military railway will produce a means of transport alike quicker, more regular, and cheaper. None of the officials here, however, appear to have information of a very recent or definite kind on this subject, except that Colonel Caloni remarked that the river might be of use for transporting railway material a certain distance, and thus accelerating the construction of certain parts of the line simultaneously.

102. *Posts and Telegraphs.*—A Shereefian service for these has been established. As regards posts, this service seems to be trying, at whatever cost, for extra

* Not reproduced.

speed, to run off the old-established foreign postal services. Telegraph wire services are now complete from Fez to Mequinez and Rabat, and to the ports south thereof. The Fez—Tangier service is worked by wire to Arbowa (i.e., the most northerly of the military posts, a few miles south of Alcazar, where the wire from the coast also comes in), and thence—ten hours—through the Spanish zone by couriers, hourly, to Arzila, whence the wire extends to Tangier. The Fez wireless installation is now used almost exclusively for communicating with Sefrou, or as an emergency service. A great cheapening of rates has naturally followed the extension of the wire system.

103. As soon, presumably, as the French and Spanish authorities can come to some arrangement, the ten hours' delay between Arbowa and Arzila will cease.

104. *General Trade.*—The year 1912, with its recurrences of revolts, &c., was naturally a very bad one for trade, and the diminution of their businesses by the continuation of hostilities with the Berbers has been of considerable loss to Fez and Mequinez, where these tribes used to buy their requirements.

105. The scarcity of cattle and country produce arising from the hostilities and the increased consumption by the increase of troops has in turn raised the price of all native commodities one-third, and often much more, above the usual rates. Happily, by reason of the sufficient rainfall, the harvests of all kinds were of average abundance.

106. *Electric Power Station Project.*—Of modern industrial projects, the first to appear is one for an electric power station at Fez, for electric lighting and similar purposes. A French syndicate is engaged in the preliminaries of surveying, and of forming a Franco-Moorish company to obtain a concession and exploit the resources which the Fez River and city afford for such an enterprise.

107. *British Trade.*—As regards British trade the year presented no feature of special interest.

108. It is much to be hoped that British manufacturers and traders generally will—before it is too late—soon begin to study the great possibilities for trade which the present developments hereabouts are so rapidly opening up.

Philanthropic, Educational, and Religious.

109. The British medical missionary work alluded to in previous reports has been continued as before, though diminished temporarily by the troubles of the year. The same remark applies to the French hospital and dispensary, and still more markedly to the French Moslem boys' school and the Jewish schools.

110. General Lyautey is a strong supporter of such work—particularly medical—by whomsoever carried on, for its immense value in extending and improving the relations between Europeans and Moors. His attitude has given great encouragement both to British and American missionaries, the course followed by General Lyautey's predecessor's having begun to make all foreigners engaged in such work apprehensive of restrictions in future.

French Military Medical Assistance to Foreigners.

111. At Fez and Mequinez large military hospitals have been established, and I should like to mention the kindness which the staffs of doctors and nurses (the latter ladies of the French Red Cross Society) so generously extend to foreigners. The doctors are invariably eager to assist anyone requiring their services, and at the hospitals foreign (even civilian) patients are admitted and treated equally with French military patients of their respective conditions, and on the same inexpensive terms. The veterinary services have been, in their department, equally obliging to foreigners.

112. In connection with the French troops, two French Franciscan priests have settled here, and one at Mequinez. At Fez they have made a small chapel, and celebrate Mass regularly in their house, which is the one in which one of the worst of the mutiny horrors occurred—the massacre of the three French telegraphists and the severe wounding of a fourth.

Increase of Foreign Colonies.

113. The road making, building, &c., incidental to the new order of things have already begun to attract a certain number of foreigners, whether men or women, unfortunately not always of the best class.

114. The Spanish colony now numbers about 110, as against perhaps five or six this time last year, and they tend to increase slightly faster than the Spanish consul can deport them. To these may be added about a dozen Italians, and a very few Portuguese. Happily so far the British additions of an unwelcome class number only two or three.

The Outlook.

115. It will have been noticed that this report has dealt with events only in the northern part of the French zone, where they came mostly under my own observation, and not with those—however important—of the south, nor of the Spanish zone, of which I have no particular acquaintance.

116. These circumstances alone make a proper estimate of the possibilities of the year to come still more difficult to form, because, for instance, the French authorities in the north cannot but be greatly affected by the course events may take in the south, or amongst the unsubdued tribes of the parts of the Spanish zone nearest to the Fez (Taza-Taourirt) regions.

117. Assuming, however, that no serious rising occurs there and in the south (and it may be remarked that, so far, while the popular attitude is of no more than resignation, no Moorish areas which has come effectively under French or Spanish control, has tried to break away from it), and keeping in view all that has been set on foot of late, it would seem as if one might expect the next twelve months to afford only a continuance of the administrative and economic developments begun during the last six months. That the ensuing period, i.e., one of continued transition, is likely to be one of increased prosperity in general can hardly, however, be expected. That can hardly be anticipated till things in general begin to work on the lines now being laid for them.

118. Similarly, as to public safety on the main roads, much improvement can scarcely be expected until, by the completion of roads and military railways, the bases of French action are so much advanced into the interior as to permit of rapid movements of troops.

119. There is at present much talk in military circles here of an expedition towards Taza, from Fez, being imminent, in combination with a movement of columns from Taourirt and Merada (River Moulouya), where of late considerable preparations appear to be on foot. A press telegram of a few days ago from Oujda asserted that Kasbah Msun—only 20 miles or so east-north-east of Taza—was to be occupied forthwith. The facts, however, as to these projects will probably not transpire until General Gouraud returns from his present visit to Rabat, where, with General Dalbiez (commanding the Mequinez region) he has been conferring with General Lyautey.

Future System of Government for the Tribes.

120. Of the problems of the interior, none seems more important than that of the system of Government to be adopted as regards the tribes; that is to say, to begin with, the "submitted" tribes. It would appear self-evident that so long as these latter tribes have to be ruled militarily, the French forces (unless greatly augmented) cannot, very prudently, be available for the pacification of the huge area which still remains to be dealt with.

121. Of the crass inefficiency and corruption inherent to the Moorish régime of the past, on the old lines, there can be no difference of opinion. Nor can there be much disagreement as to the various disadvantages attaching to the Tunis-Algeria methods of governing tribes, at any rate, when one remembers the differences of the respective populations and conditions.

122. At the best, any Moorish Government régime on the old lines hangs upon the predominance of one man or one family in a tribe—the head (in however primitive a form) of a party of the tribe. The head Government is therefore apt to appear a partisan rather than an arbiter.

123. Some rough check existed formerly when the head Government was weak. If the kaïd of a tribe became intolerably oppressive his tribe rebelled. He had, perhaps, little help to expect from the Sultan, and so was under some constraint to be moderate. While, however, he remains indispensable to the Government (the latter being now so strong), the head of the tribe has much less reason than formerly to act moderately.

124. Amongst the "unsubmitted" tribes, and amongst "submitted" tribes, where for any reason the Sultan's authority is in abeyance—as in a rebellion or an

interregnum—the custom has been for the tribesmen to erect a rough sort of council, generally of forty members, who manage practically everything concerning the tribe, and who represent it.

125. The old Moorish Government, from its weakness, was of course intensely jealous of these rude councils; but a régime strong enough to be above such fears, and with skill enough to guide such councils, might possibly find in this system a plan which would be at once intelligible to the tribesmen's minds and of value in putting a wholesome check on the kaïd's conduct, and in keeping the supreme authority in touch with the public feeling of the district. Such a plan would be, in effect, an extension (in a duly primitive form) of the native municipality system introduced at Fez, which appears to be both so popular and, on the whole, so efficient from the Moorish Government's, French Government's, and Moorish public's point of view. It might have, also, the advantage of being capable of development on its own lines as the general intelligence of the tribesmen rose under the various influences to which the future will introduce them.

126. At any rate, it ought to be of great importance to the French authorities to find some good solution of the problem of tribal government. After some fifty years of French rule in Southern Algeria, so far as I can hear or read of the matter, military government seems still indispensable and the tribes still aloof in spirit from their rulers, while Tunis is too small in area and population to be properly comparable with Morocco.

127. So, whether French administration in Morocco is to be really successful would seem very largely to depend upon the success or failure of France to solve the problem of tribal government.

J. M. MACLEOD.

Fez, March 7, 1913.

[13080]

No. 57.

Sir F. Bertie to Sir Edward Grey.—(Received March 22.)

(No. 146.)

Sir,

Paris, March 20, 1913.

I HAVE the honour to transmit to you herewith copies of a Bill recently laid before the Chamber for authorising the Moorish Government to contract a loan for 230,000,000 fr. (9,200,000l.),* which are to be devoted to the following objects:—

- 1,000,000l. for the repayment of the floating debt of the Makhzen;
- 2,800,000l. for the indemnity due to France under the agreement of the 31st March, 1910;
- 400,000l. for the payment of indemnities to the victims of the events at Fez, Marakesh, &c.;
- 2,000,000l. for the construction of the port at Casa Blanca;
- 1,050,000l. for roads in Morocco;
- 600,000l. for the installation of public services;
- 1,000,000l. for hospitals, schools, and telegraph lines;
- 220,000l. for surveys and works connected with forests and irrigation, &c.; and
- 130,000l. for subventions to various towns in Morocco for municipal works.

The annual sum necessary for the service and redemption of the loan is to be inscribed in the general Budget of the Morocco Protectorate, and will be guaranteed by the French Government. The Protectorate Government undertakes, as long as it enjoys the guarantee of the French Government, or is in debt to that Government for advances made, to devote to the service of the loan, or to the repayment of the said advances, 50 per cent. of the gross revenue received beyond the amount of 20,000,000 fr. (800,000l.). It will be observed on p. 6 of the Bill that the ordinary annual expenditure of the Protectorate Government for the next few years is estimated at something under 20,000,000l. fr.

I have, &c.

(For the Ambassador),

LANCELOT D. CARNEGIE.

* Not printed.

[13523]

No. 58.

Sir M. de Bunsen to Sir Edward Grey.—(Received March 25.)

(No. 46.)

Sir,

Madrid, March 20, 1913.

WITH reference to my despatch No. 42 of the 16th instant, I have the honour to forward herewith the *procès-verbaux* of the fourth, fifth, and sixth meetings of the Tangier Commission, together with a memorandum by Mr. White.

I have, &c.

MAURICE DE BUNSEN.

Enclosure 1 in No. 58.

Memorandum by Mr. White.

THE question of the Moorish nominated member of the Municipal Assembly was again discussed at the fourth and fifth meetings of the Mixed Commission, and it was finally decided that there should be no nominated Moorish member, but that the Mussulman electors should be allowed to elect four members, which would place them on a footing of equality with the foreign electors.

As regards the election of foreign members, it was agreed (1) that the quotient obtained by dividing the total number of electors by the number of seats to be filled should be brought to the nearest whole number, *i.e.*, taking the actual figures quoted in my memorandum of the 15th instant, the quotient 50.7 would be reckoned as 51, whereas had the fraction been less than one-half it would have been reckoned as 50; and (2) that on dividing the number of electors of each nationality by that quotient to obtain the number of seats to which each nation is entitled, a fraction of three-fourths or more is required to entitle the nationality in question to a seat. Three-quarters was taken in this case in preference to one-half, as it was feared that there might be several nationalities with fractions of about one-half, which would leave too few seats to be contested at the second elections.

It was not till the fifth meeting that the Spanish delegate finally admitted that the Sultan should be represented by a Khalifa in the international zone, and that the Khalifa should have a seat on the Commission of Control. The question had again been discussed at the fourth meeting and there had appeared to be some danger of the negotiations breaking down, as the Spanish Government seemed inclined to hold out on this point, and M. Dupeyrat stated that unless, at the next meeting, M. Padilla was in a position to accept this principle, he would have to leave Madrid. After the meeting I had a long interview with M. Padilla, and strongly urged him to accept the Khalifa on the terms on which His Majesty's Government had agreed, and I recapitulated all the arguments which had already been put forward, pointing out that, outside of the Commission of Control, the Khalifa would have no real powers. M. Padilla, however, would not then commit himself, and it was with some relief that I learnt, at the opening of the fifth meeting, that his Government had at last decided to accept the inevitable.

At the sixth meeting M. Dupeyrat and I submitted to M. Padilla the proposed manner of appointment of the kadi and nadir, as agreed upon at London, with additional provisions for ensuring the effective control of those officials. The matter was discussed, but no decision was taken, M. Padilla desiring to reserve this point.

The question of the appointment of the chief executive officer was then examined, M. Dupeyrat proposing that a "Commissaire-administrateur" should be selected from outside the Municipal Assembly by the Commission of Control, and then be appointed by the Sultan. I expressed no opinion on this proposition, as I desired first to be in possession of your views on the subject of the various appointments being made by the Sultan. As I observed in my memorandum of the 12th instant, regarding the appointment of the judges, the matter is one of form only, and perhaps of no great importance. Personally, I have no strong opinion on the subject, but I have observed a tendency on the part of M. Dupeyrat to take every opportunity of accentuating the position of the Sultan at Tangier. He considers that the Khalifa should be the senior official at Tangier, the elected president of the Commission of Control ranking next, then the "Commissaire-administrateur," and after him the other foreign representatives. Our original idea was that the prestige and authority of the foreign representatives

should be increased as much as possible, whereas the inclination of M. Dupeyrat appears to be to raise the prestige of the Khalifa and of the "Commissaire-administrateur," and to enlarge the powers of the latter at the expense of the Municipal Assembly and of the Commission of Control. He suggested that the Municipal Assembly should only hold two or three sessions a-year, the business of the municipality being conducted by the executive. The Spanish Government, on the other hand, desire to extend the powers of the Municipal Assembly. It appears to me that the middle course is the safest, *i.e.*, that the Municipal Assembly should sit sufficiently frequently to enable it to maintain a hold on the general government of the district, and that the "Commissaire-administrateur" should give effect to its decision, whilst having a certain initiative in matters of detail, the Commission of Control maintaining a full and effective supervision and control over both the Municipal Assembly and the "Commissaire-administrateur," who, with his assistants, will form the executive body.

H. E. W.

Madrid, March 19, 1913.

Enclosure 2 in No. 58.

Procès-verbal of Fourth Meeting of Tangier Commission, March 15, 1913.

LA Commission se réunit le 15 mars, à 10 heures et demie, au Palais du Ministère d'Etat.

Répondant à la déclaration de M. Padilla insérée au procès-verbal de la précédente séance, M. Dupeyrat expose qu'il ne peut accepter qu'on charge la Commission de Contrôle de désigner le "membre nommé" marocain. On ne saurait s'expliquer à quel titre elle ferait une pareille désignation.

M. Dupeyrat ajoute que, pour donner une preuve de son extrême désir de conciliation, il consentira, si l'Espagne insiste, à ce qu'il n'y ait pas de membre nommé marocain à l'Assemblée municipale.

Le siège qui était destiné au représentant du Khalifa du Sultan serait alors ajouté à ceux que le collège électoral des indigènes musulmans doit pourvoir de titulaires.

M. Padilla demande à réserver sa réponse, qu'il se propose d'apporter en même temps que celle qu'il fera au projet d'article concernant la Commission de Contrôle et inséré *in fine* au procès-verbal de la troisième séance.

La Commission passe à l'examen des questions d'éligibilité et d'électorat.

Des électeurs et des éligibles.

Mr. White donne lecture du projet d'articles précédemment examinés à Saint-Sébastien et dont le texte est ci-après reproduit :—

"Titre III.—Des Designations et des Elections.

"Article . . . Ne peuvent être membres du Conseil municipal les chefs de mission titulaires ou intérimaires.

"Un membre désigné devra appartenir à la nationalité du représentant qui l'a désigné.

"En cas d'une absence de plus de mois d'un membre désigné, le représentant qui l'avait nommé pourra le faire remplacer temporairement par une autre personne de sa nationalité.

"Ne peuvent être ni élus ni désignés comme membres du Conseil municipal—

"(a.) Ceux qui ont subi une condamnation aux travaux forcés, à la détention, à l'exil, à l'interdiction des droits civiques, ou à l'internement dans une localité désignée, ou une condamnation pour vol, escroquerie, abus de confiance ou attentat aux mœurs.

"(b.) Ceux qui ont été révoqués des fonctions qu'ils remplissaient au service d'un Gouvernement, soit à la suite d'une condamnation judiciaire, soit par décision d'un conseil de discipline, pour manquement au devoir, malversation, prévarication ou concussion.

"(c.) Ceux qui sont en état de faillite déclaré et les interdits.

[1613]

U

"Sont éligibles:—

"Toutes les personnes du sexe masculin qui remplissent les conditions suivantes:—

- "(a.) Être majeur de 25 ans.
- "(b.) Résider depuis au moins un an à Tanger.
- "(c.) Être propriétaire ou occupant d'un local porté au rôle de la taxe urbaine pour une valeur locative mensuelle de, au moins, 120 pesetas hassani.

"Ne peuvent être élus ni électeurs les membres du Corps diplomatique et consulaire.

"Sont électeurs:—

"Toutes les personnes du sexe masculin qui remplissent les conditions suivantes:—

- "(a.) Être majeur de 25 ans.
- "(b.) Résider depuis au moins un an à Tanger.
- "(c.) Être propriétaire ou occupant d'un local porté au rôle de la taxe urbaine à Tanger pour une valeur locative mensuelle de, au moins, 40 pesetas hassani.
- "(d.) Ne pas avoir encouru une peine entraînant, suivant la loi nationale de l'intéressé, la perte ou l'altération des droits civiques.

"La durée du mandat des membres du Conseil municipal est de trois ans. Tous les membres sortants peuvent être réélus ou désignés de nouveau.

"En cas de vacance parmi les membres élus, il ne sera procédé à de nouvelles élections partielles que si le nombre de ces membres élus est réduit d'un quart.

"Les fonctions de membre de Conseil sont gratuites. Aucun membre du Conseil ne peut, directement ou indirectement, se charger d'entreprises ou de fournitures municipales sous peine d'exclusion."

La Commission décide de modifier comme suit l'avant-dernier paragraphe de l'article ci-dessus:—

"En cas de vacance parmi les membres élus;

"S'il s'agit de l'un des sièges appartenant en propre à l'une des nationalités ou groupe de nationalités représenté dans l'Assemblée, le membre disparu sera remplacé dans le délai d'un mois de la déclaration de la vacance et dans la même forme où il avait été élu;

"S'il s'agit de vacances des sièges supplémentaires appartenant au collège électoral collectif des ressortissants des Puissances, il n'y aura lieu à remplacement que si au moins trois de ces sièges sont devenus vacants et si l'on n'est pas à moins de six mois du renouvellement normal de l'Assemblée."

La séance est levée à 1 heure un quart. La suite de la discussion est renvoyée à lundi, à 10 heures et demie.

Enclosure 3 in No. 58.

Procès-verbal of Fifth Meeting of Tangier Commission, March 17, 1913.

La Commission se réunit le lundi, 17 mars, au Palais du Ministère d'État, à 10 heures et demie.

M. Padilla déclare que son Gouvernement est disposé à admettre que le Sultan soit représenté à Tanger par un Khalifa, dont les attributions seront—

1. De siéger à la Commission de Contrôle en qualité de président d'honneur et avec voix délibérante et droit de vote.
2. De nommer le nadir et le cadi dans les conditions qui seront ultérieurement précisées.

Comme conséquence de cette déclaration, M. Padilla propose la formule constitutive suivante de la Commission de Contrôle:—

"La Commission de Contrôle est composée des titulaires des agences et consulats généraux des Puissances signataires de l'Acte d'Algésiras existant à Tanger.

"Le Sultan est représenté dans cette Commission par un Khalifa, qui en est le président d'honneur et y siège avec voix délibérante et droit de vote.

"Un président effectif et un vice-président sont élus chaque année par la Commission à la majorité des suffrages."

Cette formule est adoptée.

M. Padilla, complétant sa déclaration, explique que les pouvoirs attribués au Khalifa dans le texte ci-dessus présenté par lui sont les seuls que le Gouvernement du Roi puisse consentir à lui laisser concéder; que notamment il s'oppose à ce que ledit Khalifa envoie un délégué à l'Assemblée municipale, où le membre marocain "nommé" pourrait être désigné par la Commission de Contrôle.

M. Dupeyrat rappelle qu'il n'a pas pu se rallier à cette proposition déjà formulée par son collègue espagnol. Il offre, au titre de transaction, qu'un quatrième siège soit donné au collège indigène musulman. Mr. White appuie cette proposition, qui est finalement adoptée.

La Commission constate, après discussion, que l'article constitutif de l'Assemblée municipale pourrait être aussi rédigé:—

"L'Assemblée municipale se compose de trente-cinq membres dont: 11 sont nommés par les titulaires des agences et consulats généraux des Puissances signataires de l'Acte d'Algésiras existant à Tanger; et 24 sont élus dans les conditions ci-après:—

- "(a.) 4 par le collège des électeurs musulmans indigènes;
- "(b.) 3 par le collège des électeurs israélites indigènes;
- "(c.) 17 par les collèges des électeurs ressortissants des Puissances.

"La répartition de ces 17 sièges entre les diverses nationalités représentées à Tanger sera faite par les soins de la Commission de Contrôle. A cet effet, le total des électeurs ressortissants des Puissances sera divisé par le nombre 17; le quotient ainsi obtenu et arrondi au chiffre entier le plus voisin sera le quotient électoral. Chaque nationalité aura droit à autant de sièges que ce quotient sera contenu de fois dans le chiffre de ses électeurs, sans qu'elle puisse toutefois s'assurer de la sorte plus de trois représentants, et étant, d'autre part, entendu que les fractions égales ou supérieures aux trois quarts du quotient donneront droit à un siège. Les nationalités n'ayant qu'un nombre d'électeurs inférieur au quotient pourront s'apparenter pour acquérir ensemble le droit à un siège, sans que cependant les électeurs d'une même nationalité soient admis à concourir à plusieurs groupements différents.

"Chaque nationalité et chaque groupe de nationalités, constitués en autant de collèges électoraux distincts, procéderont à l'élection du nombre de représentants que la Commission de Contrôle aura ainsi attribués.

"Les sièges demeurés disponibles après cette opération seront pourvus de titulaires au scrutin de liste par tous les électeurs ressortissants des Puissances réunis en un collège unique. Ce nouveau scrutin ne pourra en aucun cas attribuer plus d'un siège supplémentaire aux nationalités déjà pourvues de trois représentants conformément aux dispositions ci-dessus."

La séance est levée à 1 heure et demie et la suite de la discussion renvoyée au 18 mars, à 10 heures et demie.

Enclosure 4 in No. 58.

Procès-verbal of Sixth Meeting of Tangier Commission, March 18, 1913.

La Commission se réunit le mardi, 18 mars, à 10 heures et demie, au Palais du Ministère d'État et adopte le procès-verbal de la dernière séance, les précédents ayant été également approuvés antérieurement.

Mr. White et M. Dupeyrat proposent ensemble le texte suivant:—

"Le nadir et le cadi de la zone internationale sont nommés par le Khalifa du Sultan. Ces nominations seront soumises, pour devenir effectives, à l'agrément de la Commission de Contrôle, qui sera acquis à la majorité simple des voix.

"Le cadi et nadir exerceront leurs fonctions sous la surveillance de ladite Commission, qui seule pourra les en relever par décision motivée, rendue à la majorité des deux tiers des voix et après que l'intéressé aura été entendu.

"Le Khalifa devra procéder à la nouvelle nomination devenue nécessaire dans le délai de quinze jours à dater de la notification de la décision de la Commission de Contrôle, faite par le président de cette Assemblée."

M. Padilla réserve sa réponse.

M. Dupeyrat propose le texte suivant relatif au Commissaire-administrateur:—

"Le pouvoir exécutif est confié à un Commissaire-administrateur, choisi hors des membres de l'Assemblée municipale, désigné par la Commission de Contrôle et investi de ses fonctions par le Sultan pour une période de cinq ans renouvelable.

"Le Commissaire-administrateur ne pourra être relevé de ses fonctions que par décision motivée de la Commission de Contrôle rendue à la majorité des deux tiers des voix et après avoir été entendu par cette Commission."

La discussion en est renvoyée à une prochaine réunion.

La séance est levée à 1 heure un quart, et la prochaine réunion fixée au lendemain, 19 mars, à 10 heures et demie.

[9378]

No. 59.

Sir Edward Grey to Mr. Kennard.

(No. 58.)

Sir,

Foreign Office, March 25, 1913.

I TRANSMIT to you herewith a memorandum embodying the substance of a letter from the principal British firms in Morocco,* in which they set forth their grievances in connection with the recent Shereefian decrees affecting real property. At the same time I enclose for your information a copy of a despatch which I am addressing to His Majesty's Ambassador at Paris on the same subject.†

I request that you will communicate the above-mentioned memorandum officially to the Moorish Government, and that you will impress on them the serious view which His Majesty's Government take of the situation as set forth therein.

I am, &c.

E. GREY.

[9378]

No. 60.

Sir Edward Grey to Sir F. Bertie.

(No. 199.)

Sir,

Foreign Office, March 25, 1913.

I TRANSMIT to your Excellency herewith a copy of a despatch which I am addressing to His Majesty's chargé d'affaires at Tangier,‡ instructing him to communicate to the Moorish Government a memorandum relative to the injury inflicted on British merchants in Morocco by the recent Shereefian decrees affecting real property.* Your Excellency will not be surprised after perusal of the memorandum to see that His Majesty's Government take strong exception to these decrees, and that they are urging upon the Moorish Government the necessity of their immediate withdrawal.

The decrees in question have already formed the subject of correspondence with your Excellency, and in your despatch No. 39 of the 26th January your Excellency forwarded to me the answer of the French Minister for Foreign Affairs to the representations of His Majesty's Government in regard to the military servitude imposed on certain lands round walled towns. M. Jonnart attempts to justify this decree on the ground that town walls, though useless against modern artillery, provide a valuable defence against tribal insurrections. This may be the case at some places, such as Fez, but the decree also applies to towns where the old walls could not in practice be used as fortifications. It is clearly shown in the memorandum enclosed in my despatch to Mr. Kennard that at all the ports the European residents are leaving the old part of the town and residing outside the walls. Apart from the fact that owing to the measures of pacification undertaken by the French authorities and the

* No. 53.

† No. 60.

‡ No. 59.

presence of a large French army of occupation an attack on many of the places named in the decree is highly improbable, His Majesty's Government cannot believe that in such an eventuality the French forces would confine themselves merely to defending the part within the walls and abandon to their fate the European houses and stores outside. The plea of military requirements becomes untenable in these circumstances, and the only justification brought forward in defence of the losses and inconvenience which the decree is causing to British subjects proves to be based on a misconception of the existing conditions.

M. Jonnart calls attention to exceptions which can be made in the application of the decree, but it appears from the above-mentioned memorandum that the decree is being enforced in places where no reason for it can be said to exist. Moreover, the fact that exceptions can be made does not affect the main contention of His Majesty's Government, namely, that until they have formally recognised the French protectorate, and so long as the Algeiras Act remains in force, the decree cannot legally be applied to British subjects. His Majesty's Government have no desire to hamper the French Government in any measures of protection which are to the general interest, and a solution might be found in confining the operation of the decree to special cases which are found on examination to require some measure of the kind. Meanwhile, however, His Majesty's Government are bound in defence of legitimate British rights to urge most strongly that the decree should be withdrawn so far as British subjects are concerned.

M. Jonnart's reply to the representations of His Majesty's Government respecting the Shereefian decree relative to the acquisition of land by foreigners is enclosed in your Excellency's despatch No. 120 of the 4th instant. His Excellency contends that in issuing this decree the Makhzen have not infringed the Algeiras Act or the Madrid Convention, since article 11 of the latter lays down that all purchases of land by foreigners must be effected in accordance with the forms prescribed by the "laws of the country," of which the decree now under discussion is apparently held, by the mere fact of its issue by the Makhzen, to form an integral part. A closer examination, however, of the ninth protocol of the Madrid Conference—see State Papers, vol. 71, pp. 858, 859—will show that this contention is based on a misconception of the sense in which the expression "lois du pays" was used.

The French plenipotentiary, Admiral Jaurès, proposed that special regulations should be drawn up for settling cases where a foreigner's claim to real property was in dispute. The Moorish plenipotentiary objected, on the ground that contested questions respecting real property had always been settled by the law of the country, namely, the Shraa, or holy law of the Koran, and both the subsequent course of the discussion, as recorded in the protocol, and the wording, drafted there and then, on which article 11 of the Madrid Convention is based, show clearly that the expression "lois du pays" referred solely to the existing Shraa, and was never intended to cover any subsequent laws or decrees that might be issued by the Sultan. It is therefore impossible for His Majesty's Government to agree to the application of the Shereefian firman of the 1st November last, and it is almost superfluous to point out that, had the acquisition of real property in Morocco ever been understood to be liable to such restrictions, arbitrarily imposed at the will of the Shereefian Government, all land transactions in the country since 1880 would have been arranged to meet such an eventuality, whereas in fact the Madrid Convention has been regarded as confirming the security of land tenure by foreigners, provided that the forms prescribed by the Shraa have been duly fulfilled.

One of the chief objections to the decree is the concluding paragraph, relative to expropriation, and I do not think the French Government have fully grasped the grounds on which this objection is based. In accordance with articles 113–119 of the Algeiras Act regulations were drawn up by the diplomatic body at Tangier governing expropriation for public works. His Majesty's Government do not understand what cases of expropriation are not covered by these regulations and in what circumstances it is proposed to apply the new ones. The French note observes that "les conditions du Maroc se sont sensiblement modifiées depuis 1906." As a general statement this is undoubtedly true; but I fail to see how any modification has taken place in regard to the circumstances in which expropriation for public works should be effected. If, nevertheless, such a modification has taken place, the obvious course would have been to extend the scope of the previous regulations to such cases and not to draw up new ones. For there is a sensible difference between the two regulations. In those drawn up by the diplomatic body it is provided that the third arbitrator, in the case of disagreement between the parties, is to be named in the case of foreigners by the diplomatic body

(article 9, section 3); in the new regulations the third arbitrator is to be named by the Makhzen. In other words, British purchasers of land are required to sign a declaration to the effect that in certain unspecified and unknown cases where their land is required for public purposes they will agree, if the value of the land is in dispute, to allow the other party to the dispute to appoint the umpire who will fix the price. It cannot be maintained that such a requirement does not constitute an "atteinte portée au statut antérieur" of the vendors of the land.

The best proof perhaps that the objections of His Majesty's Government are not inspired by any spirit of captious criticism is to be found in a resolution recently passed by the Comité consultatif du Commerce français au Maroc. In a series of paragraphs the Comité consultatif draw attention to and emphasise the illegality and inexpediency of the decree, which they consider altogether inadmissible. The resolution has no doubt been communicated to the French Government, and I may observe that I am in complete agreement with the views expressed therein by this prominent French association.

I request that your Excellency will take an early opportunity of impressing on the Minister for Foreign Affairs the serious view which His Majesty's Government take of the situation and the necessity which is imposed on them of maintaining in full the legitimate treaty rights of British subjects in Morocco. Your Excellency is authorised to communicate the contents of this despatch to the Minister for Foreign Affairs in the form that you think best, and you should also leave with him a copy of the memorandum enclosed in my despatch to Mr. Kennard.

I am, &c.
E. GREY.

[13919]

No. 61.

Sir M. de Bunsen to Sir Edward Grey.—(Received March 27.)

(No. 48. Confidential.)

Sir,

Madrid, March 21, 1913.

IN my preceding despatch of to-day I mentioned that the French Ambassador had marked with some surprise the extreme anxiety displayed by King Alfonso, in the course of conversation with his Excellency, to lose no opportunity of emphasising the determination of this country to take her place in the grouping of the European Powers on the side of France as well as that of England, and to arrange accordingly for as early a date as possible for his proposed official visit to Paris.

M. Geoffray thought that the key to the King's attitude was perhaps to be found in a controversy which has for some time been carried on between the Spanish Government and the representatives of the Mannesmann Brothers with regard to mining questions. Great irritation has been caused here by the persistence with which this pushing firm of brothers has continued to claim the ownership of the Riff mines, or at least a share in the profits to be derived from their produce. Owing to the uncompromising position taken up by the Mannesmanns, the Spanish company, which has been for years in working occupation of the mines is still effectively prevented from exporting the ore. In the face of the protests of the German firm, the Spanish Government has shrunk from the responsibility of authorising the ore to be shipped. The German firm refuses to give way unless entire satisfaction be first given to all its demands. Although the German Government have more than once refused their official support to the Mannesmanns, its representatives abroad are, many of them, avowed supporters of the firm, and Prince Ratibor, German Ambassador at Madrid, has recently intimated to the Spanish Government that no exportation of ore would be permissible until publication of the new mining regulations, as to which Germany did not admit that any alteration could be made in the draft drawn up in Paris by the representatives of the four Powers chiefly concerned, except with the concurrence of those Powers.

On this point, as reported in my despatch No. 10 of the 17th January, the Spanish, and, as I now learn from M. Geoffray, also the French Government, hold that article 1 of the Franco-German Treaty of the 4th November, 1911, invests them with full and independent powers to make mining regulations in their respective mines in Morocco, except only such as concern customs, posts, and telegraphs, and other matters specified in the conventions. M. Geoffray informs me that the mining regulations are now drafted and ready for publication in the two zones, as soon as the mode of procedure

has been determined. I gather that the regulations are to all intents and purposes very similar to those drafted in 1910 by the representatives of England, France, Germany, and Spain, except that in the place of the proposed appeal to the court at Lausanne, power to hear and settle appeals will be vested in a tribunal to be specially created for that purpose. M. Geoffray informs me in strict confidence that he found King Alfonso greatly incensed against the Germans for their attitude in these mining questions, and especially for their having presumed to dictate to Spain in the matter of the exportation of ore from the Spanish zone. The King said he had recently sent for Prince Ratibor and spoken to him very frankly on the subject, making it plain that His Majesty would regard it as an unfriendly act if Germany did not cease from interference in the matter complained of with the manifest rights of Spain in her own zone. The King had told the German Ambassador that he would see no objection to paying the value of the exported ore into a special fund, from which any sum subsequently found due under the heading of taxes, or to meet in any way the requirements of the new regulation, could be deducted. Prince Ratibor apparently failed to see his way to making any useful suggestion, and his interview with the King left His Majesty under a most disagreeable impression. So strong was the King's language in relating the incident to M. Geoffray that the latter endeavoured to find excuses for the Prince by pointing out to the King that probably no discretion had been left to the German Ambassador in these matters, especially now that his friend Herr von Kiderlen-Waechter was no longer at the head of the German Foreign Office, and that on the whole Prince Ratibor has performed his duties here in a tactful and moderate spirit, rendering it certainly undesirable that any step should be taken that might lead to his removal. M. Geoffray thinks that once the mining regulations are published, a way out of the difficulty will be more easily found, and that if the power of France and Spain to make the regulations be then disputed the matter had best be settled by reference to the Hague Tribunal. However this may be, his Excellency is persuaded that the King's extreme irritation against Germany over the mines question accounts to a considerable extent for his obvious impatience to get the Paris visit fixed for the earliest possible date.

I have, &c.
MAURICE DE BUNSEN.

[13920]

No. 62.

Sir M. de Bunsen to Sir Edward Grey.—(Received March 27.)

(No. 49.)

Sir,

Madrid, March 23, 1913.

WITH reference to my despatch No. 46 of the 20th instant, I have the honour to forward a memorandum by Mr. White on the interview which took place on the 19th instant between the Tangier Commission and the three delegates of the Syndicat international pour le Développement de Tanger, concerning future financial arrangements in the Tangier zone.

I have, &c.
(For the Ambassador),
CLAUD RUSSELL.

Enclosure 1 in No. 62.

Memorandum by Mr. White.

THE three delegates of the Syndicat international pour le Développement de Tanger, referred to in Mr. Kennard's despatch No. 91 of the 14th instant, were received by the mixed commission yesterday and presented their report, together with estimates of the revenues and expenditure of the future municipality, drawn up in the form of alternative budgets. The first, based on the present resources of Tangier and allowing for full liability for a share of the Makhzen debts, shows a substantial deficit, whilst the second, based on the principles the syndicate desires to see adopted, affords the municipality the means of existence.

The members of the mixed commission questioned the delegates on various points and elicited some interesting and useful additional information, which they will embody in a supplementary report to be presented shortly.

Copies of the two budgets are annexed hereto. The following items in these budgets are the actual figures for the year 1912. Customs duties, special tax, cattle market dues, octroi, urban tax, slaughter-house dues, Government lands, lighterage, and custom-house stores; all of these, with the exception of customs duties and special tax, are net receipts, after deducting the cost of collection. The net sanitary dues are probably overestimated, the receipts last year having been only about 25,000 pesetas hassani. The anchorage dues could only be roughly estimated and may be quite inaccurate; I am taking steps to obtain more precise information on this point. All the other items are estimates based on the accounts of the Commission d'Hygiène for last year and may be taken as approximately accurate, but probably somewhat below what the future yield will be. I have controlled the figures with those I had prepared last year.

It will be observed that no account has been taken in either of these budgets of the new taxes provided for in the Act of Algerias, which will doubtless soon be imposed. Some of these, such as the tax on the sale of real property, should produce a fair amount. Some revenue may also be reckoned on from concessions for water-works, electric light, tramways, fisheries, &c. The total gross receipts should therefore be considerably larger than represented in these budgets. On the other hand, the expenses will also in all probability be larger than estimated therein. Putting aside the port, which may have to be constructed by means of a concession, there remains the cost of construction of roads, drains, and public works in general, which must either be paid for out of income or by a loan secured on that income, and a charge upon it. There are also, besides the two loans of 1904 and 1910, other Makhzen debts for which, on the analogy of the Franco-Spanish Agreement, the international zone will be liable and it is hardly probable that the French and Spanish Governments will be willing to relieve the municipality of all its liabilities in this respect. The 2,000,000 fr. put down for "frais d'administration municipale" and "frais de souveraineté" are, moreover, a mere guess and may prove too low, considering that there will have to be a number of high officials, who should receive good salaries: they have been estimated together at the rate of 40 fr. per annum per head of population, whereas, according to M. Porché, for Algiers and French towns the average rate is about 53 fr. a-head, exclusive of "frais d'État," which do not ordinarily fall upon the municipal budget; and in a new town, where all has to be created, and where responsibility for debts already exists, the rate should be correspondingly higher.

After having completed the discussion of the financial question, and as being in some measure connected with it, the delegates of the syndicate stated that they had been charged to express the wish that the port works at Tangier should be commenced at the earliest possible moment, as it was considered to be of the utmost importance that Tangier should be provided with a good harbour without delay, the prosperity of the town being dependent thereon. Their desire was that the matter be taken in hand at once without waiting for the municipality to be established and that we should make provision for its construction in the same way as the Tangier-Fez railway had been provided for in the Franco-Spanish Agreement. They suggested that the necessary funds be obtained by means of a loan secured on the Tangier revenues, including the receipts of the harbour itself, and that it be guaranteed by the Powers, or some of them, so that the loan might be obtained on reasonable terms. M. Dupeyrat pointed out that it was not likely that such a guarantee could be obtained, and recommended that a concession be granted for the construction and exploitation of the harbour. The delegates were at first opposed to such a concession, as they considered that the municipality should have an unfettered control over the harbour; they, however, subsequently appeared to think that this objection could be met by providing that the municipality should have the right reserved to it of buying out the company holding the concession as soon as they were in a position to do so, which it was hoped would not be long, as the land to be reclaimed from the sea would be extensive and of very great value, so that a large sum could be realised by its sale. The delegates said they would study the matter again, and, on their return to Tangier, would call a meeting to discuss it, and would then address us a report on the subject. We did not commit ourselves in any way on the subject, confining ourselves to saying we would study their report when received.

M. Dupeyrat, in conversation with me, has strongly urged the granting of such a concession as being most in the interests of Tangier, and stated that the Compagnie marocaine de Travaux publics had formed an affiliated company, in which British capital was adequately represented, for the purpose of obtaining the concession in

question. I informed him that His Majesty's Government were opposed to anything being done in the matter until the municipality was able to deal with it. There would however be no harm, I presume, in obtaining full details as to the cost of the harbour, the exact amount of land to be reclaimed from the sea that will be available for sale, and the terms of the concession it is proposed to grant. If it is shown that there would be a reasonable prospect of the municipality being able to buy out the company and enter into possession of the harbour on reasonable terms, within a short period it might perhaps be advantageous to adopt this procedure. M. Dupeyrat could not tell me what share had been allotted to British capital in the new company, so I have no means of judging if it is adequately represented or not. The concession might be put up to tender on suitable terms if thought desirable, but care would have to be taken to limit the competition to companies giving sufficient guarantees. It would also have to be considered whether it would be better to grant the concession to a company in which British capital is duly represented, or to put it up to tender and run the risk of some company without any British capital obtaining it. I gathered from M. Dupeyrat that the company being formed to take up the concession for the Tangier-Fez railway is desirous of obtaining the concession for Tangier port as well, and that it is considered desirable that the railway and the harbour, that will be its terminus, should be conceded to the same company. I have been careful in speaking to M. Dupeyrat on the subject, to maintain the position we have hitherto taken up in the matter.

H. E. W.

Madrid, March 20, 1913.

Enclosure 2 in No. 62.

PROJET de Budget No. 1 de la Ville de Tanger tel qu'il s'établit—

1. D'après les ressources actuelles de Tanger.
2. D'après les principes posés et déjà déduits dans le Traité franco-espagnol.

Actif.				Fr.
Douane sur 31,000,000 fr. de commerce en 1912—				
A l'importation	..	..	..	2,500,000
A l'exportation	..	..	..	300,000
Taxe spéciale, 2½ pour cent	..	..	..	625,000
P.H.				
Accoage et magasinage	..	..	..	300,000
Marché aux bœufs	..	..	..	17,500
Droits de ports	..	..	..	12,500
Moles (total)	..	..	..	8,000
Marché aux légumes, grains, poissons	..	..	..	60,000
Taxes urbaines (total)	..	..	..	235,000
Autres taxes, stationnement, pain, &c.	..	..	..	6,000
Abattoirs	..	..	..	30,000
Droits sanitaires	..	..	..	30,000
Ancrage	..	..	..	30,000
Ex 25 pour cent				729,000
Domaines	..	..	..	103,000
Total				4,111,200
Déficit				972,518
				5,083,718
N.B.—Éventualités à envisager—				
(a.) Annuité française	..	..	..	274,000
(b.) Suppression des droits d'exportation	..	..	..	300,000
				574,000
En y ajoutant le déficit de				972,518
Total				1,546,518

Rien dans les dépenses n'est ici applicable aux travaux publics, établissements de voirie urbaine et extra-urbaine, port, égouts; également nous n'avons pas prévu le remboursement fait par la Caisse spéciale à la Commission d'Hygiène pour travaux urbains.

Passif.

1. Ristorne aux deux autres zones des droits perçus à Tanger sur les marchandises qui leur sont destinées. En évaluant à 25 pour cent de l'importation totale la part destinée à ces zones il y aurait lieu de ristorner: 2,500,000 fr. ÷ 4	Fr. 625,000
2. Contribution à la dette—	Fr.
1904	3,949,750
1910	5,242,430
Total	9,192,180

Si l'on applique la proportion admise par le Traité franco-espagnol, déduction faite de la ristorne susdite, le commerce de Tanger représentant 2,800,000 fr. moins 625,000 fr. = 2,175,000 fr., soit 10 pour cent de 22,000,000 fr. entrés dans toutes les douanes marocaines en 1911, la contribution sera donc l'annuité ..

3. Frais de contrôle et perception: Actuellement ces frais s'élèvent pour les revenus concédés (24,000,000 fr. en 1911) à plus de 6,000,000 fr., soit plus ou moins 25 pour cent à déduire des recettes ci-contre qui ne sont pas déjà nettes—	919,218
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Fr.
2,800,000
625,000
103,000
230,000 = (P.H. 300,000)

3,758,000 à 25 pour cent ..	939,500
4. Frais d'administration municipale 30 fr. par an et par habitant, 50,000 x 30	1,500,000
5. Police extérieure et politique, 500 hommes à 1,200 fr.	600,000
6. Frais de souveraineté (administration centrale, justice, instruction, culte), 10 fr. par habitant	500,000
7. Annuité française, 2,740,000 fr., divisé par 10 fr. = Mémoire 274,000 fr.	
	5,083,718

Enclosure 3 in No. 62.

PROJET de Budget No. 2 tel qu'il pourrait s'établir sans contredire aucun Document législatif et conformément à l'Équité.

Actif.

Douane (total)	Fr. 2,800,000
Taxe spéciale	625,000
Produits divers (voir Budget No. 1)	583,200
Domaines	103,000
Cabotage: la moitié du produit de 1 pour cent sur 200,000 colis multiplié par 20 fr. = 4,000,000 fr.	20,000
Frappe de la monnaie	..
Emission de billets	..
Tabacs, kif, opium, soufre	..
Postes, télégraphes	..
Mines, pêche, forêts	Mémoire
	4,131,200

N.B.—Le port se payerait lui-même.

Les égouts se payeraient par une contribution spéciale des riverains.

Il resterait un solde permettant de gager un emprunt pour les travaux publics.

Passif.

1. Ristorne: Larache a reçu, en 1911, 10,000,000 fr. à l'importation dont les $\frac{1}{3}$ pour la zone française; la ristorne devrait être par conséquent de 1,000,000 fr. ÷ 3 x 2 = 666,000 fr., soit environ 900,000 P.H., qui furent remplacés forfaitairement par 300,000 P.H. soit le tiers. Tanger, bénéficiant du même forfait, devrait payer 625,000 fr. ÷ 3	208,000
2. Contribution à la dette: la proportion admise pour l'Espagne n'étant pas équitable pour Tanger (voir Mémoire), à moins d'appliquer la proportion basée sur la population ou la superficie, ou sur le bénéfice que Tanger a recueilli sur les emprunts, mieux vaut admettre forfaitairement 5 pour cent du montant de l'annuité, soit 9,192,180 fr. à 5 pour cent	459,609

3. Frais de contrôle et perception: 12 $\frac{1}{2}$ pour cent paraissent suffisants sur les seules recettes ci-contre, qui ne soient pas déjà nettes de tous frais de perception, soit sur—

Fr.
2,800,000
625,000
103,000
230,000 = (P.H. 300,000)

3,758,000	Fr. 469,750
4. Frais d'administration municipale	1,500,000
5. Police urbaine et extra-urbaine	600,000
6. Frais de souveraineté	500,000
	3,737,359

[14091]

No. 63.

Mr. Kennard to Sir Edward Grey.—(Received March 28.)

(No. 95.)

Sir,

Tangier, March 22, 1913.

I HAVE the honour to transmit herewith copy of a despatch which I have received from His Majesty's consul at Casablanca reporting on the local situation, and from which you will observe that severe fighting still continues in the southern part of Morocco.

I have, &c.

H. W. KENNARD.

Enclosure in No. 63.

Consul Madden to Mr. Kennard.

(No. 58.)

Sir,

Casablanca, March 20, 1913.

THE French post of Wad Zem continues to be the butt of tribal attacks. Since the beginning of the present month the tribesmen have vigorously attacked the post, cutting the wires of long distances. On the 2nd March, the French had four killed and eighteen wounded; on the 3rd instant, one killed and eight wounded; and the telegrams announce a most severe fight a few days ago in which the French lost eighteen killed and forty-nine wounded, the tribal attacks being most determined. Although the "Harka" (native army) undoubtedly gets very severely punished each time by the French, yet they re-form at once, and attack again. The French have sent up large reinforcements, and taken various dispositions to meet the situation, yet the province of Tadla seems given over to determined hostilities, and this state of affairs is greatly accentuated by the failure of the rains, so that the natives have no ploughing operations to engage their attentions, and, therefore, take the field against the French. This is, of course, very bad for trade, as all commercial transactions with Tadla are at a complete standstill.

Near Mogador the country is again disturbed, a fact attributed to partisans of Kaid Anflus, since the departure of the French troops who recently punished the region. The policy of punishing the tribes, and then leaving them completely free to do as they like, seems altogether a shortsighted way of dealing with the natives, and extremely bad for trade. At least posts should be established in the regions to ensure safety to peaceable traders and travellers.

Mr. Lennox, the vice-consul at Marrakesh, informs me that the Rehamna tribe of Barabish have murdered their kaid, Bil Aid, and the murderers have fled to Tadla. Kaid-el-Ayadi has gone out to investigate the affair.

From information given to Mr. Lennox by a British semsar, it seems that the French have proclaimed an order in Rehamna markets forbidding all sale of lands. The semsar inquired from the French officer at Ben Greer about this order, and the latter, he told the vice-consul, replied that it was in order to prevent the Germans acquiring any more lands, and that they would not allow the Germans to purchase an inch of land, if they can manage it. The kuids of Rehamna have, it is said on good authority, received letters from the French authorities not to sell any lands whatever without consulting the French. Mr. Lennox seems to believe that these orders refer to Germans, rather than to other Europeans generally, and Mr. Lennox adds that

these precautions are very necessary as a great deal of Makhzen land has been sold. Mr. Lennox has sent me a copy of a letter from Colonel Mangin, addressed to the kaïd of Ooreeka, requesting him to inform him of what lands in his Kabyla have been bought by Germans since the French occupied Marrakesh, and the rise in value of these lands since the date of purchase.

Mr. Lennox states that it appears that the Sultan, Mulai Yusef, will remain at Marrakesh another four months.

General Lyautey arrived here from Marrakesh on the 17th instant, and left the following day for Rabat, both journeys being accomplished in motor car, with his suite also in military motor cars.

I have, &c.

A. M. MADDEN.

[14756]

No. 64.

Mr. Kennard to Sir Edward Grey.—(Received April 1.)

(No. 97. Confidential.)

Sir,

Tangier, March 25, 1913.

WITH reference to Mr. White's despatch No. 71 of the 17th ultimo, I have the honour to report that the adjudication of the Casablanca port works took place to-day and that the tenders were as follows:—

	Per cent.
1. Schneider et Cie. et Compagnie marocaine (French) ..	16 reduction.
2. J. and G. Hersent Frères (French) ..	8 "
3. P. Holzmann, Frankfort-on-Main (German) ..	7 "
4. Pavillet; for group—Fugerol, Société des Entreprises de Marseille, Société des grands Travaux, etc. (French) ..	7 "
5. Galtier (French) ..	7 "
6. Hollandsche Maatschappij, Hague (Dutch) ..	7 "
7. Fogliotti Penna et Cie. (Italian) ..	7 "
8. Chansegros et Delabre (French) ..	5 "
9. S. Pearson and Son (Limited) (British) ..	3 "
10. Société internationale de Travaux publics (French) ..	490 increase.

The contract was awarded to Messrs. Schneider and the Compagnie marocaine subject to the ratification of His Shereefian Majesty. It will be remembered that such work as the Compagnie marocaine have hitherto executed in this country has been notoriously bad, while Messrs. Pearson's representatives have informed me that the work done by Messrs. Schneider on the Casablanca lighter shelter last year has been so indifferent that the English firm would not have wished to risk their reputation thereon. The tender of the two French companies, in which, I understand, the Société marocaine de Travaux publics are interested, is markedly lower than that of any other firm, and it is believed in some quarters that they were determined to underbid any foreign firm at any price.

Messrs. Pearson's representatives informs me that his firm might have profitably tendered with a 9 per cent. rebate, but could never have come down to the figure of the successful French firm. They did not apparently wish to incur the risks in the work without being sure of a wide margin of profit.

I have had some conversation with Mr. F. F. Hopkinson, Messrs. Pearson's representative, on the subject of the Casablanca port works generally. He considers that the design and specifications for the works are on the whole very sound. In some respects the specifications call for weaker construction than is the practice in English design. For instance, masonry and quick-setting cement are provided for where Messrs. Pearson would have used concrete blocks.

There were of course numerous points in the "cahier des charges" which would appear to obstruct rather than facilitate the work of the contractor, as has been already reported on, but the State engineer, in conversation with Mr. Hopkinson and myself, stated that he thought that within six months the specifications would have been materially modified in favour of the contractor. It is unfortunate that the British firm should have taken so much trouble in the matter and have been unsuccessful, but one cannot help wondering whether they are not perhaps fortunate in having escaped the difficulties of every kind which would have no doubt beset them, had they obtained the contract. The French authorities will obtain unsatisfactory work from the successful firm, unless they show considerable improvement in their

methods of execution, while Messrs. Pearson would have carried out the contract in a manner worthy of their reputation. That is, however, a matter which concerns only the French Government who are providing the funds for the work.

I have, &c.

H. W. KENNARD.

[14868]

No. 65.

Mr. Norton to Sir E. Crowe.—(Received April 1.)

My dear Crowe,

Argyll House, Chelsea, March 28, 1913.

I HAVE brought to your notice from time to time the various steps taken by the Société marocaine de Travaux publics in the hope of achieving the object for which it was founded, namely, the carrying out of some of the public works in Morocco which, by common consent, are so urgently needed.

Not long ago I informed you of the intention of the Société to form a subsidiary company for the development of Tangier only, so constituted as to give to British capital a share equal to that of Germany and Spain and not less than 20 per cent. of the whole. The consent of all the groups forming the Société has now been given, and the subsidiary company is about to be constituted.

I now enclose copy of a letter which the Société marocaine de Travaux publics has just addressed to the French Government, a similar letter, as you will see, having been also sent by the German and Spanish members of the Société to their respective Governments. It is hoped that the discussions of the conference now sitting in Madrid may be agreed to afford a fitting opportunity for considering the position of the Société marocaine de Travaux publics in regard to these various questions, and I would venture respectfully to ask that the British delegate may receive instructions to join in any exchange of views which may take place.

Yours sincerely,

R. D. NORTON.

Enclosure in No. 65.

Société marocaine de Travaux publics to French Government.

M. le Ministre,

Paris, le 25 mars, 1913.

LES négociations qui se poursuivent à l'heure actuelle à Madrid vont faire entrer l'affaire marocaine dans une phase décisive, et nous estimons par suite que le moment d'aboutir est venu pour la Société marocaine de Travaux publics.

Constituée en février 1909, à l'instigation des Gouvernements français et allemand, et avec le consentement des autres Gouvernements européens, elle a groupé de puissants éléments financiers et techniques de diverses nationalités dont l'initiative individuelle s'est trouvée ainsi complètement entravée.

De cette situation découle le sentiment très légitime de tous nos participants de voir enfin notre société jouer le rôle pour lequel elle a été créée et recevoir ainsi la juste compensation à laquelle elle a droit.

A ce sujet, M. le Ministre, nous n'avons pas cru devoir vous cacher, il y a déjà plus d'un an (notre lettre du 8 janvier, 1912), le malaise qui commençait à régner parmi les membres étrangers de notre société, malaise qui n'a fait que s'accroître depuis lors.

Nos différents groupes comprennent difficilement, en effet, qu'on n'ait pas encore fait appel au concours de notre société, tout au moins pour les entreprises ayant un caractère nettement international, comme le Tanger-Fez et le port de Tanger, affaires où s'impose l'intervention de la Société marocaine de Travaux publics.

Convaincus qu'on ne pouvait lui contester son rôle prépondérant dans ces entreprises, notre société, dès sa formation, les a mises à l'étude et a réuni, pour l'une comme pour l'autre, une documentation technique qu'elle est seule actuellement à posséder.

En ce qui concerne la ligne Tanger-Fez, nous avons eu l'honneur, M. le Ministre, de vous informer qu'à la suite de la mission spéciale envoyée par nous de février à juin 1912, avec votre bienveillant appui et celui du Gouvernement chérifien, nous sommes détenteurs d'un avant-projet permettant de gagner un temps appréciable dans l'exécution des travaux telle qu'elle est prévue par l'accord franco-espagnol.

[1613]

Z

En ce qui concerne le port de Tanger, nous avons l'honneur de vous écrire le 8 janvier, 1912 :—

“Notre société a en sa possession tous les documents et études nécessaires à l'établissement d'un projet complet; elle dispose en particulier de tous les sondages effectués en rade de Tanger aux frais d'un premier consortium, dont plusieurs de ses membres faisaient partie, sondages très rigoureux qui ont servi à l'établissement des cartes dont la marine française a seule profité jusqu'ici; nous avons, en outre, fait l'acquisition d'études relatives au port, établies par un groupe allemand.”

Depuis lors nous avons fait compléter ces études, notamment par une mission envoyée à Tanger en juin 1912, et nous venons de vous communiquer le résultat d'ensemble de tous ces travaux établi, grâce au concours de M. Renaud, Ingénieur hydrographe en chef de la Marine française, qui a bien voulu nous assurer son appui pour les discussions techniques à venir.

Nous nous sommes également préoccupés d'établir un projet financier dont la réalisation sera en tout état de cause facilement assurée avec les moyens dont dispose notre société; nous en avons jeté les bases dans une note que vous voudrez bien trouver jointe à la présente lettre. Les indications de cette note sont forcément très sommaires, car il ne vous échappera pas, M. le Ministre, qu'il est impossible d'arrêter le programme financier définitif d'une semblable affaire sans avoir des données précises sur le plan des travaux qu'arrêtera l'autorité compétente et sur la fixation des droits de port qui constitueront les recettes éventuelles.

Nous nous permettons enfin de vous rappeler que la Société marocaine de Travaux publics, pour répondre au désir manifesté par certains de ses participants, notamment des représentants du groupe anglais, vient de décider la création d'une société filiale dite “Société internationale pour le Développement de Tanger,” qui se substituera à elle pour toutes les entreprises spéciales au territoire de Tanger, et notamment pour l'obtention de la concession du port; elle bénéficiera naturellement des études et travaux que détient actuellement la Société marocaine.

Nous sommes persuadés, M. le Ministre, que vous voudrez bien reconnaître que notre société a fait actuellement tout ce qui était en son pouvoir pour hâter la mise au point des deux entreprises internationales dont l'exécution est imminente au Maroc: la ligne Tanger-Fez et le port de Tanger.

Il est maintenant indispensable que nous puissions prendre contact avec les agents techniques et financiers chargés de faire aboutir ces deux affaires, et nous vous serions reconnaissants de bien vouloir nous donner vos instructions à cet égard.

La conférence internationale qui siège actuellement à Madrid pour arrêter le futur statut de Tanger nous paraît susceptible de pouvoir envisager utilement le concours de notre société dans la question du port; aussi, nos groupes allemand, anglais et espagnol saisissent-ils leurs Gouvernements respectifs de leurs desiderata à cet égard.

Nous avons tenu, M. le Ministre, à vous mettre au courant de ces démarches, en vous priant très instamment de bien vouloir faire prendre en main notre cause par le délégué français à Madrid; un échange de vues sur le rôle de notre société pourra ainsi s'ensuivre et aboutir à une solution pratique conforme aux intérêts internationaux qui sont en jeu.

Bases d'une Convention au sujet du Port de Tanger.

La Société marocaine de Travaux publics s'engage à créer une société filiale qui sera concessionnaire du port de Tanger; la durée de la concession est fixée à soixante-quinze ans.

La concession a pour objet la construction et l'exploitation d'un port à Tanger; elle comprend les terrains du domaine public actuellement disponibles ou qui pourront être conquis sur la mer.

Le capital-actions de la société concessionnaire sera fixé, d'un commun accord, avec l'administration compétente; il pourrait être, par exemple, de 5,000,000 de francs environ. Le surplus du capital nécessaire à l'exécution des travaux de premier établissement serait réalisé par des émissions d'obligations.

La société est chargée de construire et d'exploiter le port de Tanger sous le contrôle de l'administration.

Les projets techniques, établis par la société et dûment approuvés par l'administration, feront l'objet d'une estimation d'accord qui servira de base à la mise en adjudication des travaux et à la fixation du capital de premier établissement.

Ce capital comprendra, en outre, tous les frais d'organisation et d'études qui auront été nécessaires, ainsi que ceux résultant de l'entretien des ouvrages du port pendant deux années après leur mise en service; il comprendra aussi les dépenses nécessitées par l'exécution des travaux complémentaires que l'accroissement du trafic rendra nécessaires; il conviendra également de le majorer d'une somme correspondant aux intérêts intercalaires à servir aux porteurs de titres, en attendant la période d'exploitation normale du port.

Le concessionnaire portera en recettes, aussitôt que le port pourra être mis en service, tous les produits des taxes et droits de port fixés par l'administration, et dont il aura à assurer la perception. L'administration aura établi le barème des droits et tarifs, de façon à assurer au concessionnaire une recette minima lui permettant de rémunérer à un taux fixé d'accord les sommes exposées par lui.

Les insuffisances seront portées à un compte d'attente. Ce compte devra être amorti, avant tout autre emploi des fonds disponibles, aussitôt que les recettes brutes donneront lieu à un bénéfice. Une fois ce compte amorti, les bénéfices nets seront partagés entre le concessionnaire et l'administration dans une proportion à déterminer, proportion qui pourrait être d'ailleurs de plus en plus favorable pour l'administration au fur et à mesure de l'augmentation des recettes.

Pour le cas où le chiffre des recettes n'atteindrait pas le minimum prévu, la société concessionnaire ferait appel à la garantie du Gouvernement marocain ou de l'administration de Tanger, conformément à ce qui a été arrêté notamment au sujet de la concession des ports tunisiens.

Dans le cas où une garantie de ce genre ne pourrait être envisagée, la Société marocaine de Travaux publics est prête à étudier toute autre combinaison de nature à donner aux capitaux engagés la sécurité nécessaire. Dans cet ordre d'idées, toute proposition de sa part est, à l'heure actuelle, matériellement impossible, en raison de l'incertitude où elle se trouve au sujet des éléments essentiels du problème: importance des devis de construction et recettes à envisager, celles-ci dépendant des tarifs fixés et des conditions générales dans lesquelles pourra fonctionner le port de Tanger.

[10775]

No. 66.

Sir Edward Grey to Mr. Kennard.

(No. 63.)

Sir,

Foreign Office, April 1, 1913.

I HAVE received your despatch No. 79 of the 28th February last, requesting instructions as to a reply to a note in which Sid Guebbas proposes an examination of the list of protégés and mokhalats sent in by His Majesty's legation for the current year.

You will remember that in 1901 the question of mokhalats was raised by the Moorish Government, and Sir A. Nicolson in his despatch No. 21 of the 26th February, 1901, forwarded to the Foreign Office a copy of a note he had addressed to Sid Torres on the subject. This note entirely represents the views which His Majesty's Government still hold, and I request that you will be guided thereby in dealing with the matter.

In view of the terms of article 8 of the Convention of Madrid, I see no objection to a representative of His Majesty's legation attending the examination of the list of protégés and semsars, but it should be borne in mind that the list comes into effect from the day it has been transmitted to the Moorish Government, and does not need the latter's ratification.

In this connection I transmit to you herewith copies of a note from the French Ambassador, and of my reply respecting foreign protection in Morocco.*

I am, &c.

E. GREY.

[9698]

No. 67.

Sir Edward Grey to M. Cambon.

Your Excellency,

Foreign Office, April 1, 1913.

HIS Majesty's Government have learnt with much satisfaction from the memorandum dated the 28th February last, which your Excellency was good enough

* Nos. 44 and 67.

to communicate to me, that the Sherrefian Government have decided to revert to a strict application of the provisions of the Convention of Madrid in the matter of foreign protection in Morocco. His Majesty's Government have always deplored the abuses which have arisen, and they are glad to think that these will now be put an end to.

There are, however, two points in this connection to which I venture to draw your Excellency's attention. The first of these refers to the long-established practice of issuing semsar certificates to firms non-resident in Morocco. His Majesty's Government are aware that the legality of this practice has at various times been questioned, but they remain of opinion that it is entirely consonant with the spirit of the Madrid Convention; and as it has the force of thirty years' usage by all the foreign legations at Tangier in its support, His Majesty's Government assume that the Sherrefian Government do not now propose to upset the system under which legitimate commercial undertakings of foreigners in Morocco, as secured by treaties, have been maintained.

The second report refers to certificates of mokhalats. It will be remembered that early in 1901 the Moorish Government contended that merchants were not allowed mokhalats, this category of protected persons being limited to servants and workmen. The Diplomatic Body at Tangier were unanimously of opinion that the Convention of Madrid laid down no restriction either in that respect or in regard to the number of such individuals, though proper care should be exercised to limit the number of mokhalats in proportion to the value and nature of the interests confided to their charge.

His Majesty's Government do not doubt that, like themselves, the French Government remain of opinion that the views expressed by the Diplomatic Body at Tangier in 1901 correctly interpret the terms of the Madrid Convention.

I have, &c.

E. GREY.

[15277]

No. 68.

Sir M. de Bunsen to Sir Edward Grey.—(Received April 3.)

(No. 7.)

(Telegraphic.) R.

Madrid, April 3, 1913.

RATIFICATIONS of Franco-Spanish Morocco Convention having been exchanged yesterday at the Ministry for Foreign Affairs, the Spanish Government have intimated to the French Ambassador, in an official note, their recognition of French protectorate and their acceptance of Franco-German Treaty of 4th November, 1911.

[13919]

No. 69.

Sir Edward Grey to Sir M. de Bunsen.

(No. 36. Confidential.)

Sir,

Foreign Office, April 3, 1913.

I HAVE received and read with much interest your Excellency's despatches Nos. 47 and 48 of the 21st ultimo, reporting the decision of the King of Spain to pay an official visit to Paris, and the desire of His Majesty, acting under the irritation caused by German action in regard to mining questions in Morocco, to emphasise by his visit the intention of Spain to side with France in the grouping of European Powers.

As your excellency will see from my despatch No. 30 of the 28th ultimo, I have informed the Spanish Ambassador that we wish Spain and France to be on the best of terms, and the proposed visit can therefore only be welcomed by His Majesty's Government. It will, however, be most unfortunate if the visit should be associated with anything that should give the German Government cause to think it a mark of resentment at their attitude in regard to the Riff mines, for such a supposition would probably stiffen the view maintained by Germany, and thus possibly lead to a recrudescence of international difficulties in Morocco, than which nothing can be more undesirable for the Spanish Government. And I am constrained to admit that, without going into the rights or wrongs of the Mannesmann claim, the recent action of the French and Spanish Governments in conducting separate negotiations for revising

the draft Mining Regulations of 1910 does, in my opinion, to some extent justify the German Government in giving practical proof of the resentment they feel.

I have already, in a memorandum which I communicated to the French Ambassador on the 26th February last (see Morocco print of the 26th February, Section 1*), expressed my uncertainty as to the grounds on which the French and Spanish Governments claim to upset an arrangement arrived at by the four Powers together and, although it seems to me an open question whether France and Spain, so long as they observe the conditions of article 112 of the Algeiras Act and article 5 of the Franco-German Convention of 1911, are not perhaps within their strict rights, I cannot but consider their action as showing a certain lack of consideration for Germany and ourselves, and as giving occasion for difficulties which might easily have been avoided by a more courteous method of procedure.

If these difficulties could be removed, there seems no reason why the Paris visit should appear to the German Government more than a natural corollary to the satisfactory conclusion of the Franco-Spanish Agreement respecting Morocco, and your Excellency might be able to give some help to this end by taking an opportunity of suggesting to the Minister for Foreign Affairs that if, as reported in your Excellency's despatch No. 22 of the 10th February last, the revised regulations are indeed in a form to which no serious objection can be taken, no harm would probably result from, and some danger of friction might be avoided by their immediate communication to the British and German Governments.

Your Excellency could base your observations on the fact that the German Government have approached us as to our view of their contention that the draft mining regulations cannot properly be altered without the consent of all the four Powers who originally settled them (see Morocco print of the 24th February, Section 2†), and you could at the same time inform the Minister for Foreign Affairs of the memorandum, referred to above, which was in consequence addressed to M. Cambon.

I leave the manner of approaching the Minister for Foreign Affairs entirely to your Excellency's discretion. It may be better to make the conversation quite informal and unofficial, as it may then lead to a relation of the actual difficulties which the Spanish Government are now meeting with in regard to the Riff mines, and your Excellency will then be able to give voice to my views as set forth in this despatch.

As the King of Spain's proposal to pay the value of the exported ore into a special fund was told to your Excellency in strict confidence by M. Geoffray, it will not be possible to bring it up in conversation with the Minister for Foreign Affairs, but should he himself allude to it, your Excellency is at liberty so say that you are convinced that some such reasonable provisional solution of the question would commend itself to His Majesty's Government.

I am, &c.

E. GREY.

[13523]

No. 70.

Sir Edward Grey to Mr. White.

Sir,

Foreign Office, April 3, 1913.

I HAVE received from Sir M. de Bunsen your memorandum of the 19th ultimo on the 4th, 5th, and 6th meetings of the Mixed Commission on Tangier, together with the *procès-verbaux* of those meetings.

I consider that the decision that there shall be no Moorish nominated member of the Municipal Assembly, but that the Mussulman electors shall be allowed to elect four members instead of three, represents a fair compromise between the French and Spanish contentions, and I approve this arrangement accordingly.

I note with satisfaction that the Spanish delegate has finally admitted that the Sultan shall be represented by a Khalifa in the International zone, and that the Khalifa shall have a seat on the Commission of Control.

With regard to the method of appointment of the chief executive officer, or "commissaire administrateur," I would refer to my despatch of the 20th ultimo in which I stated that I would prefer to await Mr. Brunyate's views on the whole question of judicial administration in the Tangier zone before expressing any definite opinion as to the form in which the judges should be appointed. It is desirable for

* See No. 40.

† See No. 59.

the sake of consistency that the high officials of the municipality should all be appointed, either by the Sultan or by the Commission of Control, and I propose therefore to take the two questions of the appointment of the "commissaire administrateur" and of the judges into consideration at the same time.

I am, however, of opinion that the "commissaire administrateur" should rank after, and not before, the foreign representatives at Tangier. It appears to me that it would be wrong in principle if this official were to take precedence of the members of a body by whom he will be elected and by whom he might, if necessary, be dismissed.

I entirely concur in the views expressed in the last paragraph of your memorandum as to the relative functions of the Commission of Control, the Municipal Assembly, and the "commissaire administrateur."

I am, &c.
E. GREY.

[15903]

No. 71.

Sir M. de Bunsen to Sir Edward Grey.—(Received April 7.)

(No. 50.)

Sir,

Madrid, April 3, 1913.

WITH reference to my despatch No. 49 of the 23rd ultimo, I have the honour to forward herewith a memorandum by Mr. White, on the eighth meeting of the Tangier Commission, held on the 25th ultimo, together with the *procès-verbaux* of the seventh and eighth meetings. I enclose also a translation of the Spanish note, to which reference is made in Mr. White's memorandum, and a copy of my reply.

I have, &c.

MAURICE DE BUNSEN.

Enclosure 1 in No. 71.

Memorandum by Mr. White.

THE eighth meeting of the Mixed Commission was not held until the 25th instant, M. Dupeyrat having only that day returned from Paris, whither he had gone to consult with M. Pichon.

At the opening of the meeting M. Padilla read a declaration explaining the views of his Government regarding the chief executive officer, which practically coincide with those set out in the memorandum transmitted to His Majesty's Ambassador at Paris in Sir E. Grey's despatch No. 557 of the 18th November. A long discussion ensued between M. Padilla and M. Dupeyrat without leading to any result. I took little part in the discussion, except to point out that it was conceivable, and perhaps not altogether improbable, that a conflict might some day arise between the municipal assembly and the commission of control. The former might insist on enforcing some measure which the latter had vetoed, and the chief executive officer, if he were the nominee of the assembly, might give effect to that measure notwithstanding the veto. The only disciplinary measure the commission of control could adopt would be to dismiss the chief executive officer, but in that case the assembly would, in all probability, re-elect him, when a deadlock would ensue. This could not happen if the chief executive officer were appointed by the commission of control, as, in the first place, he would not be likely to give effect to a measure that had been vetoed, and if he did the commission of control could dismiss him and appoint someone else in his place.

I had already, the previous day, discussed the subject at some length with M. Padilla, and had endeavoured to induce him to accept the compromise which had been arrived at in London. He stated that his Government had very strong views on this subject; that they had been much pleased with the above-mentioned memorandum of the 18th November, as the arguments therein used had appeared to them conclusive. It was, therefore, with surprise and regret that they had learnt that His Majesty's Government had abandoned their position. I explained to M. Padilla that it was only as to the mode of appointment of the chief executive officer that the position had been abandoned, and I added that I personally saw no objection to the modification that had been introduced. Indeed, I preferred that the choice of that official should rest with the commission of control, as affording a better guarantee of a good choice. M. Padilla, however, was not satisfied, and said that his Government would press

their demand that the assembly should elect the chief executive officer from amongst their own members. I do not understand the insistence of the Spanish Government on this point, as the French element in the municipality, with the support of the Moorish and Russian vote, will have a stronger position in the municipal assembly than in the commission of control. I trust, therefore, that they will realise that it is advisable that they should not hold out on this matter.

It is not only in regard to the chief executive officer that the Spanish Government have raised objections; they have hesitated to ratify M. Padilla's acceptance of the formula regarding the composition of the municipal assembly, as to which an agreement was come to at the fifth meeting. Señor Navarro Reverter has addressed to the British and French Ambassadors an identic letter, annexed hereto in translation, requesting—

1. That at the first elections by foreigners, when the various nationalities vote separately, the limit of members of one nationality that can be elected be raised to four; and
2. That the extra seat, available by the suppression of the Moorish nominated member, be allotted to the foreign electors and not to the native Mussulmans.

M. Dupeyrat read out this letter at the eighth meeting, and said that it would be impossible for him to agree to the latter request. As, however, the letter had been addressed to the Ambassador, he would leave it to his Excellency to reply thereto.

The first of the above points had been raised by M. Padilla at the fifth meeting, and had then been fully discussed. I had strongly urged that the limit of three be maintained at the first elections, and that it be left to the whole body of the foreign electors to add one more member of a nationality already represented by three members, if they thought fit. There was a better chance of obtaining the most suitable candidates by this system, and more scope would be given for including in the assembly useful members, subjects of the minor Powers.

The *procès-verbaux* of the seventh and eighth meetings are annexed hereto.

H. E. W.

Madrid, March 27, 1913.

Enclosure 2 in No. 71.

Procès-verbal of Seventh Meeting of Tangier Mixed Commission, March 19, 1913.

LA Commission se réunit le mercredi, 19 mars, à 10 heures et demie, au Palais du Ministère d'État.

Le *procès-verbal* de la précédente séance est adopté.

La Commission consacre sa séance à l'audition de MM. Ruiz, Saurin et Abensur, chargés par le Syndicat international pour le Développement économique de Tanger et par les membres élus de la Commission d'Hygiène de lui exposer les desiderata de la population européenne tangéroise sur l'organisation financière de la future zone internationale.

Les trois délégués tangérois remettent aux membres de la Commission mixte un rapport imprimé de M. Javiel Saurin et deux projets de budget, qu'ils commentent et expliquent en détail. Ils expriment, en dernier lieu, le vœu que la ville de Tanger soit dotée d'urgence d'un port suffisamment grand et suffisamment bien outillé pour répondre à tous les besoins du commerce.

MM. Ruiz, Saurin et Abensur, avant de se retirer, remercient la Commission mixte de son accueil et annoncent le prochain d'un rapport complémentaire.

La séance est levée à 1 heure et demie.

Enclosure 3 in No. 71.

Procès-verbal of Eighth Meeting of Tangier Mixed Commission, March 25, 1913.

LA Commission mixte d'organisation de Tanger se réunit le mardi, 25 mars, à 4 heures et demie de l'après-midi, au Palais du Ministère d'État.

Le *procès-verbal* de la précédente séance est adopté.

M. Padilla donne lecture de la déclaration suivante :—

“ Le Conseil municipal de Tanger aura sans doute besoin d'organes spéciaux pour l'exécution de ses décisions et, en général, pour le fonctionnement des services publics. Dans les degrés inférieurs, aussi bien que dans tout ce qui peut avoir un caractère technique, ces organes seront évidemment constitués par un personnel retribué et recruté en dehors de la municipalité. Les conditions pourront faire l'objet des travaux de la Commission.

“ M. Dupeyrat, dans la proposition qu'il a formulée à la séance du 18 courant, envisage, en outre, l'existence d'un organe supérieur fonctionnant au-dessus de ces autres organes; le Commissaire-administrateur, investi par le Sultan du pouvoir exécutif; or, l'expression ‘investiture du Sultan’ ne paraît pas répondre à notre commun esprit; le Sultan délègue tous ses pouvoirs à la municipalité; et c'est à la municipalité d'en investir qui bon lui semblera d'accord avec le statut municipal. Laissant de côté ce point de pure forme, le Gouvernement de Sa Majesté est d'avis qu'en enlevant à la municipalité le pouvoir exécutif et en la réduisant à la catégorie d'une simple assemblée délibérante, on risque d'aller à l'encontre de l'intention des trois Puissances de doter la ville de Tanger d'un régime de ‘self-government.’ Celui-ci ne deviendra une réalité qu'à la condition de confier aux membres de la municipalité, non seulement de la discussion et la décision des affaires, mais aussi bien leur gestion directe.

“ Tout cela sans entrer dans l'examen des difficultés pratiques auxquelles on se heurterait pour trouver un candidat non seulement apte à la charge, mais encore suffisamment impartial entre les différentes nationalités et assez soucieux des intérêts locaux.

“ D'autre part, rien n'exige la création de ce Commissaire-administrateur; on conçoit facilement une méthode qui permette de mettre en pratique les arrêts du Conseil municipal et d'assurer la marche des affaires publiques.

“ Le Conseil municipal aura un président élu par l'Assemblée, appelé à en présider les séances et à—

“ 1. Maintenir des rapports avec le Comité de Contrôle, avec les tiers et, en général, de représenter la municipalité;

“ 2. Promulguer, exécuter et faire exécuter les décisions du Conseil;

“ 3. Surveiller le personnel et le fonctionnement des services;

“ 4. Mandater les paiements et assurer la rentrée des taxes.

“ Dans l'exercice de ces fonctions, le président sera, ou assisté ou remplacé d'office par ses collègues; rien n'empêche, en effet, que tels ou tels services, la voirie, les jardins, les marchés, &c., soient confiés au contrôle spécial d'un membre de la municipalité autre que le président, ou que pour certaines catégories d'affaires, par exemple, l'examen des comptes, la préparation du budget, &c., on constitue des commissions de plusieurs membres de la municipalité. C'est ainsi que fonctionnent la plupart des municipalités du monde.

“ Si à Tanger on trouve des circonstances particulières, elles militent plutôt contre que en faveur d'un système différent.

“ Le personnel payé par la municipalité se rangera dans des services portant sur l'organisation judiciaire, la police, les travaux publics, la santé, les finances.

“ Il est prévu que les trois premiers services vont faire des délibérations de la Commission. Les deux autres et, en général, tous ceux organisés par la municipalité, seront réglés par les décisions de celle-ci. Il appartient seulement à la Commission de poser des principes. Les emplois les plus importants seraient pourvus ou par la Commission, de Contrôle ou avec l'agrément de celle-ci; notamment cette méthode aurait à être observée si on décidait la création d'un poste de Secrétaire général.

“ Le concours doit être préféré à toute autre manière de recrutement. Un contrat devra être stipulé entre la municipalité et ses employés; en décidant la création d'un poste, la municipalité fixera son traitement, les conditions exigées pour le remplir et l'autorité à qui appartiendra la nomination.”

Une longue discussion s'engage sur les divers points soulevés par M. Padilla sans qu'une entente intervienne. M. Dupeyrat propose alors de laisser provisoirement de côté la question du Commissaire-administrateur. Il ne lui est pas possible, en effet, de se rallier au point de vue de son collègue espagnol et il compte que la suite même des travaux de la Commission mixte fournira la preuve qu'un Commissaire-administrateur est indispensable à Tanger.

Si cette ville devait, comme toute autre ville du Maroc, demeurer sous l'autorité du protectorat français ou espagnol, on comprendrait qu'un maire élu lui fût accordé. Mais tel n'est pas le cas. La souveraineté du Sultan ne sera que nominale. Il serait imprudent, dans ces conditions, d'opposer l'une à l'autre Assemblée municipale et la Commission consulaire sans placer entre elles un organe intermédiaire capable d'aplanir les conflits et de négocier les transactions nécessaires. Pour remplir ce rôle, tout au moins dans les débuts, il semble convenable au Gouvernement de la république de faire appel à un fonctionnaire de carrière, ayant l'expérience des affaires publiques et réunissant en sa personne le double caractère de mandataire de la municipalité et de commissaire de la collectivité protectrice. Ces considérations ont entraîné la conviction du Gouvernement de Sa Majesté britannique. Il y a tout lieu d'espérer que le Gouvernement de Sa Majesté Catholique voudra bien aussi en reconnaître la valeur.

La question du Commissaire-administrateur est, conformément à la proposition de M. Dupeyrat, réservée et il est décidé que la prochaine réunion sera employée à fixer les conditions d'électorat et d'éligibilité, ainsi que les attributions de l'Assemblée municipale.

La séance est levée à 7 heures un quart.

Enclosure 4 in No. 71.

Señor Reverter to Sir M. de Bunsen.

(No. 23.)

Sir,

Madrid, March 22, 1913.

SEÑOR PADILLA, delegate on the commission at present, examining the basis for the administration of Tangier, has reported to me with regard to its meetings between the 10th and the 19th instant, which have been given up, as your Excellency will know through Mr. White, to the question of the composition of the council.

The Spanish delegate, in accordance with my instructions, has shown a spirit of compromise and has admitted that the commission should depart from what had been already settled by the delegates in June and July last. He has asked only for modifications of detail in the new system, and above all—

1. That the number of councillors whom the European electors of the same nationality may elect on a first scrutiny, that is, without participation of the other nationalities, shall be four instead of three.

2. That the Moorish councillor whose nomination it was desired to entrust to the Sultan, be suppressed.

Señor Padilla, having to his regret not obtained the adhesion of his colleagues to these proposals, has not insisted so as not to delay the course of the work and he has agreed that in the *procès-verbal* of the fifth meeting there should appear, as approved, the proposal contained in it, but he has reported to me in order that the Spanish Government may, if they wish, use their friendly offices with the British Government. Therefore, having maturely considered the case, I feel that I ought to call your Excellency's kind attention to matters which are firmly based on just arguments.

When in June and July last it was agreed that the Tangier Council should be composed of twelve nominated and twelve elected members, with a maximum of three elected for each nationality, the more numerous colonies in that town could hope to see themselves represented by four votes as against twenty; and supposing that the Spaniards, the French and the Moors, had simultaneously reached that limit, there remained to other countries three elected and nine nominated councillors, that is to say, twelve.

Now the Moors amount to seven; for the other countries, elected and nominated councillors together, twenty-eight; and the countries having important colonies will be able to hope for five votes; but in a total of thirty-five, that is, five as against thirty. Their position is manifestly disadvantageous, and hence the wish for some equitable modification.

On the other hand, from the moment that it is admitted that the citizens of one and the same nationality shall alone elect their councillors, it is obvious that recourse to the European electoral college, which we may call global or international, on a second scrutiny, ought always when possible to be omitted. This will be obtained if on the first scrutiny each country shall elect up to four councillors; the number of

posts remaining over to be filled by the international college would be less and on many occasions non-existent.

As regards the Moors, it is contradictory to fear, on the one hand, that they will be inspired by anti-European sentiments, and to try, on the other, to increase the numbers of their representatives. The Spanish Government naturally accept that the native population, Moslem or Jewish, shall have a sufficient number of votes in the council to ensure that their interests be respected, but are disposed to think that in the political condition of Morocco the native residents of Tangier are more and more inclined to come under foreign influences. The Moorish vote will find it difficult to be independent because the limits of local life are not likely to be sufficiently wide to develop a true native spirit, and the complexities of Tangier administration are already sufficient without increasing them by the competition of the Moslem or Jewish vote.

The Spanish Government have no wish to carry this principle to the point of refusing to either race a just participation in the Council, neither do they hide that their opinion is contrary to any undue increase. Six Moorish councillors (all elected, since it is not desired that one should be nominated by the Commission of Vigilance), three of them Moslems and three Jews, appear sufficient; they do not see the necessity of adding another, likewise elected and equivalent to the one that it was desired should be nominated by the Sultan, and who would not have represented local interests.

The simple suppression of the nominated Moorish delegates would, moreover, have the advantage of diminishing, although slightly, the total number of councillors, already too large.

In the hope that the Government which your Excellency so worthily represents will take note of these considerations, I avail, &c.

NAVARRO REVERTER.

Enclosure 5 in No. 71.

Sir M. de Bunsen to Señor Reverter.

(No. 33.)

Your Excellency,

Madrid, April 3, 1913.

I HAVE had the honour to receive your Excellency's note of the 22nd instant, expressing the hope that the British Government may take into consideration certain objections which are entertained by the Spanish Government to the agreement already come to by the Mixed Commission, and placed on record in the *procès-verbaux* of its proceedings, with regard to the composition of the Municipal Assembly in the international zone of Tangier.

I am forwarding a translation of your note to Sir Edward Grey, from whom I shall doubtless receive in due course instructions as to the reply which he may desire me to return to your Excellency.

Meanwhile, I trust that you will forgive me for offering, as a personal observation of my own, the remark that an examination of the two points raised in your note leads me to think that, as regards each of them, a considerable concession has already been made to meet the wishes of the Spanish Government.

The first point refers to the limitation of the number of municipal councillors of the same nationality. As arranged by the Mixed Commission, three may be elected at the first scrutiny and one more at the supplementary scrutiny, making in all, with the addition of the nominated member, a possible total of five municipal councillors of the same nationality. By adopting your Excellency's proposal that the number eligible at the first scrutiny be raised to four, the possible total of members of one nationality would rise to six.

On this point I would ask your Excellency to bear in mind the fact that the British delegate arrived at Madrid furnished with instructions which contemplated a possible maximum of only four councillors of one nationality, namely, three elected and one nominated. This restriction was one to which, in the discussions between the British and French Governments of which your Excellency was kept constantly informed, great importance was attached by the former Government. It was only therefore in order to demonstrate his strong desire to concur as far as he possibly could with his Spanish colleague that Mr. White consented to stretch his instructions to the extent of admitting one more possible member of the same nationality. This concession would seem therefore to bear testimony rather to the

successful advocacy of the Spanish view by Señor Padilla than to any disposition to ignore his suggestions.

Similarly, on the second point raised by your Excellency, the consent of the French delegate to substitute an elected for a nominated Moorish councillor may fairly be regarded, in my opinion, as a further instance of the readiness of the Mixed Commission to defer as far as possible to the wishes of the Spanish delegate. On this point also the British delegate expressed at once his concurrence with an amendment calculated, as it seemed to him, to remove the Spanish apprehension lest the proposed power of nomination should invest the Khalifa with an undesirable prerogative.

Your Excellency will no doubt agree that it is highly desirable, in the interest of a speedy conclusion to the labours of the Mixed Commission and the consequent complete establishment of the organisation of the international zone, that the negotiators should approach the various points still remaining to be discussed in the same conciliatory spirit as that which has resulted in the agreements already adopted.

I avail, &c.

MAURICE DE BUNSEN.

[15904]

No. 72.

Sir M. de Bunsen to Sir Edward Grey.—(Received April 7.)

(No. 52.)

Sir,

Madrid, April 4, 1913.

WITH reference to my despatch No. 50 of yesterday, I have the honour to forward herewith the *procès-verbaux* of the ninth to the thirteenth meetings of the Tangier Commission, together with a memorandum by Mr. White on the same.

I have, &c.

MAURICE DE BUNSEN.

Enclosure 1 in No. 72.

Memorandum by Mr. White.

THE Mixed Commission devoted the ninth to the thirteenth meetings to the consideration of the question of the electorate. Much time was taken up by the Spanish delegate pressing (1) that persons who had hired premises of a rent value of 40 pesetas per month should be electors, even though they had sublet them, and (2) that proprietors of premises of the required rent value should not have the right to vote unless they were entitled to do so as occupiers. The first of these proposals I refused to accept, as it would enable the franchise to be fraudulently extended by a number of fictitious subleases of the same premises. M. Dupeyrat supported my view and, in the end, M. Padilla reluctantly gave way. Both M. Dupeyrat and I objected also to the second proposal as it tended to disfranchise persons having vested interests in the country—a class of persons to whom it is desirable to give a vote. It is conceivable that a proprietor may let his house and reside in one for which he pays no rent; he might, for instance, reside with relations or friends or, in the case of the manager of a company or firms he might reside on premises belonging to his principals. M. Padilla, however, strongly insisted and, to avoid a further waste of time on the fruitless discussion of a point not of capital importance, as the case would probably not be of frequent occurrence, M. Dupeyrat and I accepted the proposal.

The question of the extension of the franchise to the country residents presented some difficulties. We were unanimously of opinion that proprietors and tenants of farm lands of any considerable extent should be granted the right of representation in the Municipal Assembly, but, as there are few houses in the country of the rent value of 46 pesetas a-month, the mere extension of the "taxe urbaine" to the whole of the international district would not fairly meet the case. On the other hand, it is not known what tax in the nature of a land tax the future municipality may impose, and we could not well base the qualification for the franchise on a tax not yet in existence. It was therefore decided to adopt the following somewhat vague formula:—

"Être occupant, à titre de propriétaire ou locataire (1) à Tanger, d'un local porté

au rôle de la taxe urbaine pour une valeur locative mensuelle de, au moins, 40 pesetas hassani; (2) dans la partie rurale de la zone internationale, d'un immeuble, bâti ou non bâti, porté au rôle de la taxe directe, correspondant à la taxe urbaine, pour la même valeur locative de, au moins, 40 pesetas hassani."

The subject of deprivation of the franchise still remains open, the original formula, "ne pas avoir encouru une peine entraînant, suivant la loi nationale de l'intéressé, la perte ou l'altération des droits civiques" not being considered satisfactory, as being contrary to the principle of equality. The jurists attached to the delegates have been requested to draw up an article on the subject for our consideration.

The question of excluding officials from the electorate was a delicate one, there being arguments in favour of each side. After some hesitation, we decided that on the whole it was better that officials should not take part in the elections.

Although provision is to be made for the abolition of protection in the international zone, it was considered advisable to deal with the question of the position of protégés at the elections. We came to the conclusion that, should protection not yet have been abolished at the time of the elections, protected persons should vote as though they had no protection. A more difficult point, however, was whether they could be elected, for it was inadmissible that the position of any nation on the Municipal Assembly should be strengthened by the election of protégés. M. Padilla suggested that for the purpose of the limitation of the number of members of any one nationality, protégés should count as subjects or citizens of the Power by which they were protected. I naturally expressed my willingness to accept this proposal, but M. Dupeyrat objected with some warmth, expressing his surprise that Spain, in its desire to prevent any extension of French influence in the Assembly, should put forward a proposal directed against France, even though it was equally against its own interests. The matter did not appear to me to be of sufficient importance to make it worth fighting for, the number of British protégés at Tangier being small, and it being probable that protection will be abolished very soon, perhaps before the first elections, so in order to cut short a somewhat acrimonious discussion, I said I should raise no objection to a solution of the question by the exclusion of protégés from the Municipal Assembly. To this M. Padilla reluctantly agreed.

It was decided that Muslims, subjects of Powers not signatory to the Act of Algiers, should be classed with natives. A more difficult question arose in regard to the Muslim subjects of the signatory Powers, a matter of especial interest to France, on account of the numbers of Algerians at Tangier. Algerians are allowed to opt for full French citizenship, carrying with it the right of franchise; as, however, this right is coupled with the obligations of citizenship, including that of military service the number of Algerians who have opted for French citizenship is comparatively small. M. Dupeyrat had no desire to include Algerians in the foreign electorate, as there would be danger of their swamping the genuine French element at the first elections. On the other hand, we declined to admit them to the Moorish electoral college, and we firmly refused to allot them separate seats in the Municipal Assembly, and M. Dupeyrat calmly suggested. We told him that they were French subjects, and that if they voted at all it must be in the French college; it was for him to disfranchise them if he wished. I do not anticipate any danger from the inclusion of Algerians in the foreign college, now that each nation will vote separately for the members to which it is entitled. It is only at the second elections that they will have any voice in the election of foreign members, and the French would, in any case, gain their extra seat then.

The thirteenth meeting was taken up with elaborating articles dealing with the preparation of the electoral lists. In several of these articles M. Dupeyrat proposed to provide for certain action to be taken by the Khalifa in connection with native voters. To this M. Padilla strongly objected. The action to be taken was of no importance, and would not have tended to increase the power or influence of the Khalifa over the native voters; but it appeared to me better, as a matter of principle to limit, as far as possible, direct relations between the Khalifa and natives, so I induced M. Dupeyrat to accept in each case a formula omitting all mention of the Khalifa.

Copies of the procès-verbaux of the five meetings are annexed thereto.

H. E. W.

Madrid, April 2, 1913.

Enclosure 2 in No. 72.

Procès-verbal of Ninth Meeting of Tangier Mixed Commission, March 26, 1913.

LA Commission mixte d'organisation du régime de Tanger se réunit le mercredi, 26 mars, 1913, à 10 heures et demie du matin, au Palais du Ministère d'État.

Le procès-verbal de la huitième séance est adopté.

Conformément à la décision prise la veille, la Commission reprend l'examen des questions d'électorat et d'éligibilité, qui donne lieu à une longue discussion générale.

M. Dupeyrat propose, comme conclusion de cet échange de vues, de reviser le projet et articles dont Mr. White a donné lecture au cours de la quatrième séance (15 mars) et de grouper ensemble toutes les dispositions relatives à un même objet.

Cette proposition est adoptée et la Commission aborde l'examen des conditions d'électorat.

Le projet d'article précédemment lu par Mr. White est ainsi conçu :—

"Sont électeurs :

"Toutes les personnes du sexe masculin qui remplissent les conditions suivantes :

- "(a.) Être majeur de 25 ans ;
- "(b.) Résider depuis au moins un an à Tanger ;
- "(c.) Être propriétaire ou occupant d'un local porté au rôle de la taxe urbaine à Tanger pour une valeur locative mensuelle de, au moins, 40 pesetas hassani ;
- "(d.) Ne pas avoir encouru une peine entraînant, suivant la loi nationale de l'intéressé, la perte ou l'altération des droits civiques."

M. Dupeyrat signale la nécessité de modifier ou de compléter le paragraphe (c), relatif au cens électoral, de manière à assurer la représentation des habitants de la partie rurale de la future zone ainsi que le paragraphe (d) qui, en raison des différences de législation d'origine, créerait des inégalités injustifiables. Il propose, en conséquence, le texte suivant pour le paragraphe (c) :—

"Être propriétaire ou occupant :

- "1. Soit à Tanger, d'un local porté au rôle de la taxe urbaine pour une valeur locative mensuelle de, au moins, 40 pesetas hassani ;
- "2. Soit dans la partie rurale de la zone internationale, d'un immeuble bâti ou non bâti, porté au rôle de la taxe directe, correspondant à la taxe urbaine, pour une valeur locative mensuelle de, au moins, 40 pesetas hassani."

M. Dupeyrat observe d'ailleurs que le paragraphe 2 de le texte pourrait être ultérieurement corrigé si la Commission recueille des éléments complémentaires d'information d'où il résulte que les conditions de cens imposées aux citoyens et aux ruraux ne sont pas égales.

Mr. White adhère à cette proposition ; M. Padilla ne l'accepte pas et demande que le droit de vote soit attribué indistinctement au propriétaire, au locataire non occupant ou à l'occupant d'un local taxé pour la valeur locative prévue. Mr. White et M. Dupeyrat observent que l'addition réclamée provoquerait de façon presque inévitable un grand nombre d'inscriptions frauduleuses sur les listes électorales, rien n'étant plus facile que les locations fictives.

La séance est levée à 1 heure et demie, et la suite de la discussion renvoyée à la prochaine réunion.

Enclosure 3 in No. 72.

Procès-verbal of Tenth Meeting of Tangier Mixed Commission, March 27, 1913.

LA Commission mixte d'organisation du régime de Tanger se réunit, à 11 heures, au Palais du Ministère d'État.

Le procès-verbal de la neuvième séance est adopté.

M. Dupeyrat communique à la Commission un avant-projet rédigé par M. Berge, conseiller à la Cour d'Appel de Paris, qui a été désigné pour l'assister dans la préparation de la future organisation judiciaire de la zone internationale.

[1613]

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Il est décidé que M. Padilla et Mr. White remettront un exemplaire de cet avant-projet au juriste britannique et au juriste espagnol chargés de les assister, et qu'ils les inviteront à échanger leurs observations avec M. Berge.

M. Padilla donne ensuite connaissance d'un télégramme par lequel M. Gautsch, "Président des Assemblées de Tanger," remercie la Commission de l'accueil qu'elle a fait aux délégués du syndicat international. Le texte de ce télégramme est le suivant :—

"Assemblée générale résidents intéressés statut local après avoir entendu rapport ses trois délégués a décidé adresser à MM. les commissaires Espagne, France, Angleterre réunis à Madrid expression son entière confiance et déjà sa reconnaissance pour accueil attentif et sympathique aux revendications Tanger.—Gautsch, Président Assemblées."

La discussion des conditions d'électorat étant reprise, M. Padilla, au nom de son Gouvernement, demande que le paragraphe (c) soit ainsi rédigé :—

"Être occupant à titre de propriétaire ou de locataire :—

"1. A Tanger d'un local porté au rôle de la taxe urbaine pour une valeur locative mensuelle de, au moins, 40 pesetas hassani.

"2. Dans la partie rurale de la zone internationale d'un immeuble, bâti ou non bâti, porté au rôle de la taxe directe, correspondante à la taxe urbaine pour la même valeur locative mensuelle de, au moins, 40 pesetas hassani."

Mr. White déclare ne pas comprendre la raison d'être de cet amendement, qui ne peut avoir d'autre effet que de priver du droit de vote, contre toute équité, des contribuables, remplissant néanmoins la condition du cens électoral. M. Dupeyrat appuie l'observation de Mr. White. Cependant, il ajoute que, soucieux de ne pas prolonger la discussion, il est, pour sa part, disposé à céder à l'instance de son collègue. Mr. White déclare qu'il donne aussi son adhésion à la formule de M. Padilla en raison de l'instance de ce dernier.

M. Padilla répond que son Gouvernement estime en effet que le cens électoral doit être basé, non sur la propriété posée, mais sur l'occupation effective d'un local représentant un certain prix de loyer, qui est le signe extérieur d'un revenu déterminé.

La Commission examine s'il y a lieu d'accorder ou de refuser le droit de vote aux fonctionnaires et agents de l'État chérifien et de la municipalité. D'excellentes raisons recommandent l'une et l'autre solution.

Ce sont, pour le droit de vote, la simplicité du système, la difficulté de fixer la limite des services publics proprement dits, l'intérêt de ne pas priver le corps électoral d'un élément qui offre des garanties particulières de valeur morale et intellectuelle, et de réelle expérience des affaires publiques. Contre le droit de vote militent l'utilité de placer les fonctionnaires et agents en dehors et au-dessus des luttes de partis et de nationalités, celle d'éviter la discussion et la critique publiques par des subordonnés des actes de leurs chefs; la double considération que leur vote pourrait n'être pas entièrement libre et qu'en somme l'existence d'un cens électoral limiterait considérablement le nombre des exclus.

La Commission conclut à l'adoption du texte suivant :—

"Ne sont pas électeurs les agents et consuls généraux et les fonctionnaires de carrière sous leurs ordres, les fonctionnaires et agents commissionnés de l'État chérifien et de la municipalité."

Enclosure 4 in No. 72.

Procès-verbal of Eleventh Meeting of Tangier Mixed Commission, March 28, 1913.

LA Commission mixte d'organisation du régime de Tanger s'est réunie le vendredi, 28 mars, 1913, à 10 heures et demie, au Palais du Ministère d'État.

Le procès-verbal de la dixième séance est adopté.

M. Dupeyrat propose l'article suivant :—

"Les sujets chérifiens qui, en vertu de la Convention de Madrid, sont protégés de l'une des Puissances signataires de cette convention ou, y ayant adhéré, font partie du collège électoral indigène."

Mr. White estime que la protection devant être abolie dans la zone internationale par l'établissement du nouveau régime, cet article est inutile.

M. Dupeyrat reconnaît la justesse de cette observation, mais fait remarquer que la suppression de la protection pourra être liée à celle de l'ensemble du régime des Capitulations et des juridictions consulaires qui, en fait, ne coïncidera peut-être pas exactement avec l'inauguration du nouveau régime administratif; qu'il y a donc nécessité de régler, au moins à titre provisoire la capacité ou l'incapacité électorale des protégés dont l'Angleterre a fait savoir, par son memorandum le 18 novembre qu'elle n'admettait pas l'exclusion pure et simple.

Mr. White accepte à ce titre. M. Padilla est disposé à accepter aussi à la condition que la question d'électorat ne préjuge en rien de celle de l'éligibilité.

Mr. White propose l'article suivant :—

"Le collège indigène musulman comprend les musulmans marocains et les musulmans non ressortissants des Puissances signataires de l'Acte d'Algésiras."

La proposition est adoptée.

Le délégué français s'explique très bien la préoccupation qu'a eu Mr. White d'éviter que le collège indigène puisse, à quelque moment, comprendre un nombre peut-être grand d'électeurs soumis à une influence extérieure; c'est pourquoi il a adhéré tout de suite à la proposition qui vient d'être adoptée. Mais où vont voter les musulmans qui relèvent d'une Puissance signataire de l'Acte d'Algésiras? En fait, la question intéresse presque exclusivement la France, car seules sans doute l'Algérie et la Tunisie pourront avoir à Tanger des colonies importantes. Comme il s'agira là d'un élément spécial de la population, le mieux et le plus juste eût été de lui accorder une représentation spéciale. Mais Mr. White et M. Padilla ont nettement déclaré qu'ils n'admettent aucune augmentation du nombre des élus indigènes déjà plus élevé qu'ils ne l'auraient souhaité. Il faut pourtant que les musulmans algériens et tunisiens soient représentés. M. Dupeyrat les revendique donc comme électeurs français, devant être entendu, par ailleurs, que la Commission prendra soit d'éviter que Tanger puisse devenir un lieu de réunion et un foyer d'intrigues pour transfuges algériens et tunisiens hostiles à la France.

Sous cette réserve M. Dupeyrat propose l'addition suivante à l'article présenté par Mr. White :—

"Les indigènes musulmans non marocains originaires d'une colonie ou d'un pays de protectorat, relevant d'une Puissance signataire de l'Acte d'Algésiras, feront partie du collège électoral des ressortissants de cette Puissance."

La discussion de ce texte est renvoyée à la prochaine réunion.

La séance est levée à midi trois quarts.

Enclosure 5 in No. 72.

Procès-verbal of Twelfth Meeting of Tangier Mixed Commission, March 29, 1913.

LA Commission mixte d'organisation du régime de Tanger s'est réunie, le 29 mars, à 10 heures et demie, au Palais du Ministère.

Le procès-verbal de la dernière séance est adopté.

La Commission délibère sur la formation de la liste électorale et adopte, après discussion, les articles suivants :—

"1. La liste électorale est établie au commencement de chaque année par une Commission spéciale composée de douze délégués représentant les douze membres du Comité de Contrôle et désignés par chacun d'eux.

"2. Cette Commission spéciale tient exclusivement compte :

"Pour la condition de résidence, des déclarations d'immatriculation inscrites au registre spécial qui sera ouvert, à cet effet, au siège de l'administration municipale;

"Pour les conditions de cens, des inscriptions portées au rôle de la taxe urbaine et de la taxe rurale correspondante;

"Pour les conditions de capacité civique et d'âge, des déclarations fournies par les autorités compétentes, c'est-à-dire, suivant les cas, les agents et consuls généraux ou l'Administration municipale.

"3. Provisoirement et jusqu'à ce que les registres d'immatriculation de l'Administration municipale aient deux ans de date, les conditions de résidence pourront être prouvées par tous les moyens et notamment par l'immatriculation aux consulats ou par l'inscription sur le rôle de la taxe urbaine ou sur les listes de souscription de la Commission d'Hygiène."

La suite de la discussion est renvoyée à la prochaine réunion, et la séance est levée à 1 heure et demie.

Enclosure 6 in No. 72.

Procès-verbal of Thirteenth Meeting of Tangier Mixed Commission, March 31, 1913.

LA Commission mixte d'organisation du régime de Tanger se réunit, le 31 mars, à 10 heures et demie, au Palais du Ministère d'État. Le procès-verbal de la séance dernière est adopté.

La Commission adopte les textes suivants :—

"1. La liste électorale est permanente; elle est révisée chaque année par la Commission spéciale du 1^{er} au 10 janvier.

"La Commission spéciale inscrit, soit d'office, soit sur leur demande, les électeurs qui sont reconnus avoir acquis ou devoir acquérir avant le 1^{er} avril les conditions requises pour l'électorat. Elle doit rayer les électeurs décédés; ceux dont la radiation a été ordonnée par les autorités compétentes; ceux qui ont perdu l'une des qualités requises; ceux qui sont reconnus avoir été indûment inscrits, alors même que leur inscription n'aurait pas été attaquée.

"2. La Commission spéciale tient un registre de toutes ses décisions et y mentionne leurs motifs et pièces à l'appui. Elle en donne directement avis aux électeurs radiés.

"La liste révisée est déposée au secrétariat de l'Administration municipale le 15 janvier au plus tard, et avis en est donné au public par voie d'affiches et autres formes habituelles de publicité de l'Administration municipale.

"La minute déposée au secrétariat de l'Administration municipale est communiquée à tout requérant, qui peut en prendre connaissance ou copie sans déplacement et la reproduire par la voie de l'impression.

"Un procès-verbal constatant l'accomplissement des formalités ci-dessus prescrites sera dressé par la Commission spéciale et adressé immédiatement au Comité de Contrôle.

"Si au moins le quart des membres de ce Comité estime que les formalités ou les délais prescrits n'ont pas été observés, il peut, dans les deux jours de la réception du procès-verbal, déférer les opérations de la Commission spéciale au tribunal.

"4. Tout électeur a le droit dans un délai de vingt jours à partir de la publication de la liste, c'est-à-dire du 15 janvier au 4 février, de demander non seulement son inscription personnelle, mais l'inscription ou la radiation d'autres électeurs.

"5. La Commission spéciale avertit sans frais l'électeur dont l'inscription est contestée.

"6. La Commission spéciale statue immédiatement et au plus tard dans les cinq jours sur toutes les réclamations qui lui sont adressées.

"Un tableau de ses décisions est publié le 10 février dans les mêmes formes que les listes électorales.

"Les décisions de la Commission sont notifiées aux parties dans les trois jours de leur date, par lettre recommandée avec accusé de réception. Elles sont susceptibles d'appel.

"L'appel est porté devant le tribunal de première instance.

"Le délai d'appel est de cinq jours; il court à dater de la réception de la lettre recommandée pour les électeurs présents à Tanger et à dater de leur retour dûment constaté pour les absents.

"L'appel n'est assujéti; à aucune forme particulière. Il peut être fait soit personnellement, soit par mandataire dûment autorisé par écrit. Il résulte d'une simple déclaration au greffe dont il sera donné récépissé.

"Le tribunal avertit trois jours à l'avance toutes les parties intéressées et statue dans le plus court délai."

"Le recours en cassation est ouvert contre les jugements définitifs et à ceux-là seuls qui ont été parties devant le juge d'appel.

"Il doit être formé dans les dix jours du jugement par simple requête au greffe du tribunal qui a jugé l'appel et qui doit dans les trois jours transmettre le dossier de l'affaire au tribunal supérieur.

"Celui-ci confirme ou casse le jugement d'appel incriminé et dans tous les cas, décide souverainement de l'inscription ou de la radiation. Les listes sont arrêtées le 31 mars et publiées le 1^{er} avril.

"Jusqu'au 31 mars de l'année suivante les seuls changements qui peuvent y être apportés aux listes électorales consistent dans les radiations des électeurs décédés ou privés de leurs droits électoraux par jugements passés en force de chose jugée, dans les additions ou retranchements ordonnés par décisions de justice.

"La Commission spéciale devra, en cas d'élection, dresser et publier à toute époque de l'année, et quinze jours avant la réunion des électeurs, un tableau explicatif contenant lesdites modifications."

[16316]

No. 73.

Señor Reverter to Spanish Chargé d'Affaires.—(Communicated to Foreign Office by Spanish Minister, April 7.)

(Translation.)

Madrid, April 5, 1913.

REPRESENTATIVES of the Moorish Colony at Tangier who have come to Madrid to lay their proposals before the Technical Commission ask, among other things, that "the right of electing religious functionaries, such as cadis, administrators of the Habous properties, and other religious duties, should reside in the consultative assembly to be elected by the natives. After these officials have been elected by the assembly their names should be submitted to the approval of the Makhzen. They must be citizens of the zone." The Government believe that there is no objection to supporting this, but they would like to know (1) whether in view of the possibility of objections being made by France, the British Government are disposed to support this proposal; (2) what is to be understood by consultative assembly. For the purpose in view the best way would be to consider as such the whole body of elected Moorish councillors.

The appointment of cadis and nadirs will follow subject, of course to the approval of the Commission of Vigilance (committee of control). In order to better understand these instructions you should consult the report of the second sitting of the Commission which was sent to you a short time ago.

REVERTER.

[16525]

No. 74.

Mr. Kennard to Sir Edward Grey.—(Received April 10.)

(No. 19)

(Telegraphic.) R.

Tangier, April 10, 1913.

MY despatch No. 76 of 24th February: Building outside fortifications.

Following received from His Majesty's vice-consul at Saffi :—

"Military authorities require Murdoch to stop work at once on grounds of 250 metres zone under threat of complete demolition without any compensation. Military authorities communicate direct with firm; ignore my consular jurisdiction as in the case of subjects of foreign Powers. Spanish consul and I consequently will ignore such peremptory orders pending the receipt of instructions."

I am making strong protest to Commissioner for Foreign Affairs, and propose, subject to your instructions, to approve attitude of His Majesty's vice-consul.

(Repeated to Paris, No. 158.)

[1613]

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No. 75.

Sir Edward Grey to Mr. Kennard.

(No. 11.)

(Telegraphic.) R.

Foreign Office, April 10, 1913.

YOUR telegram No. 19 of 10th April: Buildings at Saffi.
 Attitude of His Majesty's vice-consul at Saffi has my approval, and I also approve your protest. I am communicating with French Government.
 (Repeated to Paris, No. 159.)

[16525]

No. 76.

Sir Edward Grey to Sir F. Bertie.

(No. 160.)

(Telegraphic.) R.

Foreign Office, April 10, 1913.

Mr. KENNARD'S telegram No. 19 of 10th April and my telegram to Tangier No. 11 of 10th April: Buildings at Saffi.

You should inform French Minister for Foreign Affairs with reference to the communication which you have made to his Excellency in accordance with the instructions contained in my despatch No. 199 of 25th March.

I trust that, pending consideration promised by French Minister for Foreign Affairs in your despatch No. 169 of 1st April, instructions will be sent not to interfere with Messrs. Murdoch's buildings at Saffi.

[17057]

No. 77.

Sir M. de Bunsen to Sir Edward Grey.—(Received April 14.)

(No. 61.)

Sir,

Madrid, April 10, 1913.

I HAVE the honour to transmit herewith *procès-verbaux* of the 15th, 17th, and 18th meetings of the Tangier Commission together with a memorandum thereon by Mr. White.

I have, &c.

MAURICE DE BUNSEN.

Enclosure 1 in No. 77.

Memorandum by Mr. White.

I TOOK an opportunity at the 15th meeting of the Mixed Commission to draw attention to the difficulty that might arise in connection with the election of the president of the Committee of Control, owing to the even number of voters rendering a tie possible, and I proposed the solution suggested in Sir E. Grey's despatch of the 25th ultimo. After some discussion it was decided to adopt the French system, according to which, in such cases, the older candidate is considered elected; this system has at least the advantage of simplicity.

The 15th, 17, and 18th meetings were devoted to the question of the elections to the Municipal Assembly. The Commission experienced considerable difficulty in finding a satisfactory formula for classifying Jewish electors not subjects of Powers signatory to the Algeiras Act. It was felt that Oriental Jews should belong to the native Jewish college, but that European Jews, even though not subjects of a signatory Power, could not well be placed in the same class. There was also the question of South American Jews, nearly all of whom are of Moorish origin, and are indistinguishable from their relations, who had remained in Morocco. Finally it was decided that Jews, subjects of the non-signatory Powers, should vote with their Christian nationals, but that those of them who were subjects of an independent Mussulman Power should vote with the Moorish Jews.

In connection with this subject M. Dupeyrat raised the question of native Jews claiming foreign naturalisation contrary to the provisions of the Madrid Convention. The question is one that closely touches Spain, as a number of Moorish subjects,

Mussulmans and Jews, are claimed by the Spanish Legation as naturalised Spanish subjects, although, according to the term of the Madrid Convention, they are really Moorish subjects. M. Padilla protested against any power being given to the Committee of Control to contest the legality of naturalisations claimed as regular by the consular authority concerned. The matter was allowed to drop for the time, but it will be taken up later. It is very desirable that the terms of the Madrid Convention be strictly adhered to, as otherwise the Spanish Government can at any time increase the number of Spanish electors by the simple expedient of granting naturalisation certificates, which can apparently be obtained without even the necessity of visiting Spain.

The Mixed Commission adopted articles drawn up, at its request, by the jurists, attached to it, disfranchising electors convicted of certain offences; such persons are thereby also precluded from being elected as members of the Municipal Assembly, as only electors are eligible.

A number of articles were elaborated at the 18th meeting laying down the manner in which the elections should be conducted, and providing that cases, in which the validity of the elections is contested, should be tried by the international tribunal.

At the 17th meeting it was decided that the representatives should be free to nominate any members of their respective colonies as their nominated members without being limited to persons fulfilling the conditions as to residence, rent, &c., required in the case of elected members.

The *procès-verbaux* of the 15th, 17th, and 18th meetings are annexed hereto; that of the 16th meeting accompanied my memorandum of the 5th instant. The 14th meeting having been occupied with the question of the judicial organisation, I am forwarding it with a separate memorandum.

H. E. W.

Madrid, April 8, 1913.

Enclosure 2 in No. 77.

Procès-verbal of Fifteenth Meeting of Tangier Mixed Commission, held April 2, 1913.

LA Commission mixte d'organisation du régime de Tanger s'est réunie au Palais du Ministère d'État le mercredi, 2 avril, 1913, à 10 heures et demie.

Le procès-verbal de la dernière séance est adopté.

La Commission décide, pour corriger le paragraphe (d) de l'article relatif aux conditions d'électorat, conformément à ce qui a été convenu au cours de la neuvième séance, de demander aux juriscultes qui lui sont adjoints une liste énumérative des condamnations devant entraîner la perte du droit de vote.

Mr. White propose de préciser la procédure d'élection du président du Comité de Contrôle.

La Commission décide que cette élection aura lieu au scrutin secret. Un candidat ne pourra être élu au premier ou au deuxième tour de scrutin que s'il a obtenu la majorité absolue des suffrages des membres du Comité. Sera élu au troisième tour le candidat ayant obtenu la majorité relative des suffrages des votants. En cas de partage égal des voix, l'élection est acquise au bénéfice de l'âge.

La Commission adopte l'article additionnel proposé par M. Dupeyrat à la fin de la onzième séance au sujet des indigènes musulmans non marocains originaires d'une colonie ou d'un pays de protectorat relevant d'une Puissance signataire de l'Acte d'Algéciras. La Commission examine si les règles adoptées pour la répartition des musulmans dans les divers collèges électoraux devront s'appliquer aux israélites.

Elle décide:—

1. Les israélites indigènes marocains protégés ou non protégés feront partie du collège électoral indigène israélite.

M. Dupeyrat émet l'avis qu'il y aurait lieu, en ce qui concerne les israélites ressortissants des Puissances, de préciser que seuls seront considérés comme ayant cette qualité ceux qui par leur lieu d'origine et leur filiation ont véritablement une nationalité étrangère et ceux qui bénéficient d'une naturalisation conformément aux dispositions de la Convention de Madrid.

Mr. White accepte de formuler cette précision.

M. Padilla ne voit pas de raison pour cette précision, en ce qui concerne les israélites, qu'en ce qui a trait aux musulmans. Elle semble d'ailleurs avoir la portée de donner à la Commission de Contrôle un droit de revision sur les naturalisations étrangères, qui n'est pas prévu dans les traités. C'est pourquoi il estime devoir réserver la décision de son Gouvernement.

M. Dupeyrat reconnaît, en effet, qu'il n'y a pas lieu de distinguer, au point de vue qu'il a envisagé, entre israélites et musulmans. Il étend, en conséquence, sa proposition aux uns et aux autres.

Mr. White accepte.

La séance est levée à 1 heure un quart.

Enclosure 3 in No. 77.

Procès-verbal of Seventeenth Meeting of Tangier Mixed Commission, held April 4, 1913.

LA Commission mixte d'organisation du régime de Tanger s'est réunie le vendredi, 4 avril, 1913, au Palais du Ministère d'État, à 10 heures et demie du matin.

Le procès-verbal de la dernière séance est adopté.

La Commission décide qu'elle examinera les demandes présentées par les délégués marocains quand elle traitera des questions auxquelles ces demandes se rapportent.

M. Padilla propose la formule suivante pour compléter la réglementation des listes électorales:—

"Les israélites ressortissants des Puissances non signataires de l'Acte d'Algéciras feront partie du collège électoral des ressortissants de ces Puissances. Toutefois, les israélites ressortissants d'une Puissance musulmane indépendante feront partie du collège électoral de leurs coreligionnaires marocains."

Cette proposition est adoptée.

De l'Éligibilité.

La Commission décide:

Sont éligibles les électeurs occupant, à titre de propriétaire ou de locataire, un local porté au rôle soit de la taxe urbaine, soit de la taxe rurale correspondante pour une valeur locative de 120 pesetas hassani.

Aucune condition de cens ou de durée de résidence n'est imposée aux membres de l'Assemblée municipale désignés par les agents et consuls généraux.

Toutefois, ne peuvent à aucun titre faire partie de l'Assemblée municipale les agents étrangers chefs de postes à titre de titulaire ou d'intérimaire.

Un membre désigné devra toujours appartenir à la nationalité du représentant étranger qui le nomme et qui pourra à toute époque le remplacer définitivement ou temporairement.

Les désignations à titre définitif ou temporaire devront être notifiées par écrit et directement au président de l'Assemblée municipale.

Sont inéligibles les entrepreneurs de services municipaux ainsi que toutes personnes ayant directement ou indirectement avec l'Administration municipale des contrats ou marchés d'entreprises ou de fournitures ou qui sont concessionnaires à quelque titre que ce soit de la municipalité.

M. Dupeyrat propose l'article suivant:—

"Tout membre de l'Assemblée municipale qui par une cause survenue postérieurement à sa nomination, se trouve dans un des cas prévus d'exclusion ou d'incompatibilité, est immédiatement déclaré démissionnaire soit d'office, soit sur la demande d'un des membres de l'Assemblée par le président de celle-ci, sauf réclamation devant le tribunal dans les dix jours de la notification de l'exclusion."

La séance est levée à 1 heure et demie.

Enclosure 4 in No. 77.

Procès-verbal of Eighteenth Meeting of Tangier Mixed Commission, held April 5, 1913.

LA Commission mixte d'organisation du régime de Tanger s'est réunie au Palais du Ministère d'État le samedi, 5 avril, à 10 heures et demie du matin.

Le procès-verbal de la précédente séance est adopté.

La Commission adopte la rédaction proposée, sur sa demande, par les trois juristes qui lui sont adjoints pour ce qui concerne les condamnations privatives du droit de vote.

En conséquence, le paragraphe (d) du projet d'article inséré au procès-verbal de la neuvième séance sera ainsi conçu:—

"Ne doivent pas être inscrits sur les listes électorales:

"1. Les individus condamnés à une peine privative de la liberté d'une durée de deux ans au moins;

"2. Les interdits, les officiers ministériels destitués en vertu de décisions judiciaires ou disciplinaires;

"3. Les interdits et les faillis non réhabilités;

"4. Les individus condamnés pour vol, escroquerie, abus de confiance, attentats aux mœurs, abus des besoins, des faiblesses ou des passions d'un mineur, infraction aux lois sur la traite des blanches, soustraction de deniers publics.

"Ne peuvent être inscrits que cinq ans après l'expiration de leur peine: les individus condamnés à une peine privative de la liberté d'une durée de six mois au moins.

"Des Elections.

"Le Comité de Contrôle, vingt avant la date fixée pour les élections, procède à la répartition de sièges prévue à l'article inséré au procès-verbal de la cinquième séance.

"Le président du Comité de Contrôle donne immédiatement avis des résultats de cette répartition au chef de l'Administration municipale.

"Celui-ci convoque les divers collèges spéciaux de chaque nationalité ou groupes de nationalités quinze jours au moins avant la date de l'élection: l'arrêté de convocation est publiée par voie d'affiches et autres formes habituelles de publicité de l'Administration municipale.

"Article . Le scrutin, sauf décision contraire de l'Assemblée municipale expressément approuvée par le Comité de Contrôle, est toujours ouvert un dimanche, de 9 heures du matin à 5 heures du soir, dans le local où siège l'Assemblée municipale.

"Article . Dans chaque collège spécial de nationalité, le bureau de vote est composé du membre de cette nationalité ayant siège à la Commission spéciale de formation des listes, président, et de quatre assesseurs désignés par les électeurs présents et pris parmi eux.

"Article . Dans le collège global des ressortissants des Puissances, le bureau de vote est composé des membres de la Commission spéciale de Formation des Listes, qui choisiront le président.

"Article . Dans les collèges électoraux indigènes musulman et israélite, le bureau est désigné par la Commission de Formation des Listes électorales et composé de membres choisis par elle parmi les électeurs de ces collèges.

"Article . Dans tous les collèges électoraux, le bureau désigne deux scrutateurs titulaires.

"Article . Le président a seul la police de l'assemblée électorale, à qui sont interdites toute discussion et toute délibération. Nul électeur ne peut entrer dans la salle porteur d'armes quelconques.

"Article . Trois membres du bureau au moins doivent être présents pendant tout le cours des opérations de vote.

"Article . Le bureau juge provisoirement les difficultés qui s'élèvent sur les opérations de vote. Ses décisions sont motivées. Toutes les réclamations et décisions sont insérées au procès-verbal et les pièces et bulletins qui s'y rapportent y sont annexées après avoir été parafés par le président et le secrétaire.

"Article . Pendant toute la durée des opérations, une copie de la liste des électeurs reste déposée sur la table autour de laquelle siège le bureau. Cette liste

contient les noms, domicile et qualification de chacun des inscrits. Elle est certifiée par le président de la Commission spéciale de Formation des Listes.

"Article . Nul n'est admis à voter s'il n'est inscrit sur cette liste. Le vote par procuration ou par correspondance n'est pas accepté.

"Article . Les électeurs apporteront leurs bulletins préparés en dehors de la salle de vote. Le papier du bulletin doit être blanc et sans signe extérieur. L'électeur remet au président son bulletin fermé. Le président le dépose dans la boîte du scrutin. Le vote de chaque électeur est constaté sur la liste, en marge de son nom, par la signature ou le parafe avec initiales de l'un des membres du bureau.

"Article . Le président doit constater, au commencement des opérations de vote, l'heure à laquelle le scrutin est ouvert. Il constate également l'heure à laquelle le scrutin est clos. Ces constatations sont inscrites au procès-verbal. Après que le scrutin a été déclaré clos, aucun vote ne peut être reçu.

"Article . Après la clôture du scrutin, il est procédé au dépouillement de la manière suivante: La boîte du scrutin est ouverte et le nombre des bulletins vérifié. Si ce nombre est plus grand ou moindre que celui des votants, il en est fait mention au procès-verbal. Le bureau désigne parmi les électeurs, s'il en est encore de présents dans la salle, deux scrutateurs adjoints. Le président et les autres membres du bureau surveillent l'opération du dépouillement qui est effectuée par les deux scrutateurs titulaires aidés par les deux scrutateurs adjoints au cas où il en aurait été désigné.

"Article . Les bulletins sont valables même s'ils portent un nombre de noms supérieur ou inférieur à celui des conseillers à élire. Toutefois, les derniers noms inscrits au delà de ce nombre ne sont pas comptés. Les bulletins blancs ou illisibles, ceux qui ne contiennent pas une désignation suffisante ou dans lesquels les votants se font connaître, n'entrent pas en compte dans le résultat du dépouillement, mais ils sont annexés au procès-verbal.

"Article . Immédiatement après le dépouillement le président proclame le résultat du scrutin.

"Dans les collèges spéciaux de nationalité des ressortissants des Puissances, l'élection est toujours définitive dès le premier tour et acquise à la majorité relative. Dans le collège global des ressortissants des Puissances et dans les collèges indigènes musulman et israélite, nul n'est élu au premier tour s'il n'a réuni:

1. La majorité absolue des suffrages exprimés;
2. Un nombre de suffrages égal au quart de celui des électeurs inscrits;

"Si plusieurs candidats obtiennent le même nombre de suffrages, l'élection est acquise au plus âgé.

"Article . Aucune nationalité ne pouvant être représentée par plus de quatre membres élus au sein de l'Assemblée municipale, les candidats de même nationalité élus en surnombre par le collège global des ressortissants des Puissances ne seront pas proclamés. L'élection, en ce cas, sera acquise au candidat qui vient ensuite et qui appartient à une autre nationalité, à la condition qu'il ait obtenu la majorité absolue des suffrages exprimés et au moins le quart des suffrages des électeurs inscrits. Au cas où cette double condition ne serait pas remplie, il devra être procédé à un second tour comme il est dit à l'article nombre.

"Article . Le procès-verbal des opérations et la liste des élus sont dressés, séance tenante, et signés par les membres du bureau. Copie certifiée de ces deux documents est immédiatement adressée par le président du bureau de vote au chef de l'Administration municipale et au président du Comité de Contrôle. Les bulletins autres que ceux qui doivent demeurer annexés au procès-verbal original sont brûlés sur-le-champ.

"Article . Lorsque un deuxième tour de scrutin est nécessaire, l'assemblée électorale est de droit convoquée pour le dimanche suivant. Les électeurs en sont avisés par des insertions publiées le jeudi au plus tard, dans la même forme que pour le premier tour.

"Article . Au second tour de scrutin, l'élection a lieu à la majorité relative. Néanmoins et conformément à l'article , on ne proclamera pas, quel que soit le nombre de suffrages obtenus, les candidats appartenant à une nationalité qui compte déjà quatre représentants parmi les élus. Le bénéfice de l'élection sera acquis aux candidats ayant obtenu le plus grand nombre de voix parmi ceux qui n'appartiennent pas à une nationalité déjà représentée par quatre membres élus.

"Article . Tout électeur a le droit d'arguer de nullité totale ou partielle les opérations électorales. Les réclamations doivent, à peine de nullité, être déposées

au greffe du tribunal dans la semaine qui suit le dernier tour de scrutin. Il en est donné récépissé. Le tribunal statue en dernier ressort sur lesdites réclamations dans le plus court délai et au plus tard dans le mois qui suit le dépôt de la réclamation."

La séance est levée à 1 heure et demie.

[15903]

No. 78.

Sir Edward Grey to Sir M. de Bunsen.

(No. 41.)

Sir,

Foreign Office, April 14, 1913.

I HAVE received your despatch No. 50 of the 3rd instant, respecting the Tangier negotiations now proceeding at Madrid, and I transmit to your Excellency herewith, under flying seal, a despatch addressed to Mr. White in reply to his memorandum on the eighth meeting of the Mixed Commission.*

I entirely approve the terms of your Excellency's reply to the note addressed to you by the Spanish Minister for Foreign Affairs on the subject of the composition of the future Municipal Assembly.

The Minister for Foreign Affairs puts forward the suggestion that the number of councillors whom the European electors of the same nationality may elect on a first scrutiny shall be four instead of three. As your Excellency has pointed out, His Majesty's Government only consented to raise the total number of members of any one nationality to five (one nominated and a possible total of four elected on first and second elections) with great reluctance, and as a mark of their desire to meet the wishes of the Spanish Government so far as possible, and they would be most reluctant to make any further concession on this point.

If the latest Spanish proposals were adopted, any elections held with the present electorate at Tangier would result in an assembly of thirty-four, composed of six Moors, six French, six Spanish, three British, and two elected and eight nominated members of other nationalities, thus leaving only three vacancies to be filled up at the second election. These figures show for themselves that the proposed system is unsatisfactory. Moreover, if the hope that the British electorate will increase is realised, no seats will be left for members of other nationalities, which would, in my opinion, be most undesirable as I fully concur in the view expressed by Mr. White that scope should be left for the election of useful members of whatever nationality.

Señor Navarro Reverter also proposes that the Moorish member, whose nomination was to have been entrusted to the Sultan, be suppressed. His Majesty's Government have, however, already approved the agreement recorded at the fifth meeting of the Commission, by which the Moorish nominated member would disappear, but the Mussulman electors would be allowed to elect four members instead of three. This arrangement appeared to His Majesty's Government to be a very fair compromise, and they consider it to be of great importance that the Mussulman electors shall be satisfied with their representation on the Municipality. They regret consequently that on this point also they cannot see their way to issue fresh instructions to the British delegate.

I authorise your Excellency to address a further note to Señor Reverter in the sense of the present despatch.

I am, &c.

E. GREY.

[15903]

No. 79.

Sir Edward Grey to Mr. White.

Sir,

Foreign Office, April 14, 1913.

I HAVE received from Sir M. de Bunsen your memorandum of the eighth meeting of the Tangier Mixed Commission, together with the *procès-verbaux* of the seventh and eighth meetings.

With regard to the appointment of the chief executive officer, or "commissaire-administrateur," I shall be glad if you will discuss the matter with the French

* No. 79.

delegate with a view to see whether some compromise which would be acceptable to the Spanish Government can be suggested. You may inform M. Dupeyrat that His Majesty's Government would not object to its being laid down that the chief executive officer "shall be chosen either from among the members of the Municipal Assembly or from outside that body," in place of the present wording, which states that he shall be chosen "preferably, but not necessarily, from outside the Assembly," but I remain of the opinion that the choice of that official should rest with the commission of control.

My views respecting the latest Spanish proposals as to the composition of the Municipal Assembly are stated in my despatch to Sir M. de Bunsen No. 41 of even date.

I am, &c.
E. GREY.

[16316]

No. 80.

Sir Edward Grey to Mr. White.

Sir,

Foreign Office, April 14, 1913.

WITH reference to your report on the tenth meeting of the Mixed Commission at which the representatives of the Moorish colony at Tangier were received, I transmit to you herewith a translation of a telegram received by the Spanish Minister in London from the Minister of State,* instructing him to ascertain the views of His Majesty's Government on the Moorish proposal that the right of electing certain religious and other functionaries in the Tangier zone shall reside in a "Consultative Assembly to be elected by the natives."

I shall be glad if you will favour me with your views as to whether the Moorish proposal should be supported by His Majesty's Government, and as to the further suggestion put forward by the Spanish Government that the native Consultative Assembly shall be composed of the whole body of elected Moorish members of the Municipal Assembly.

I am, &c.
E. GREY.

[17557]

No. 81.

Sir M. de Bunsen to Sir Edward Grey.—(Received April 17.)

(No. 62.)

Sir,

Madrid, April 12, 1913.

I HAVE the honour to transmit to you herewith reports that I have received from Mr. White in reference to the proceedings of the Tangier Commission.

I have, &c.
(In the absence of the Ambassador),
CLAUDE RUSSELL.

Enclosure 1 in No. 81.

Memorandum by Mr. White.

WITH reference to my memorandum of the 12th ultimo and to Sir E. Grey's despatch of the 20th ultimo, I transmit herewith a memorandum by Mr. Brunyate containing his observations on the scheme of judicial organisation for Tangier drawn up by M. Berge.

The time required for preparing this memorandum and for having it copied has left it, when finished, somewhat out of date; it represents, however, Mr. Brunyate's original views, and he informs me that all he now considers it necessary to add is that his suggestions have been so sympathetically received by his colleagues that nothing finally settled by them is in serious conflict with the views expressed in his memorandum.

* No. 73.

With regard to the question whether the judges should be appointed by the Committee of Control or by the Sultan, Mr. Brunyate expresses the opinion that, from the judicial point of view, it is of no importance, and that it is one to be decided by the Mixed Commission and not by the jurists. As to the selection of the judges, however, he gives reasons, which appear to me to be very sound, for recommending that they be selected by the Committee of Control and not by the Powers.

Mr. Brunyate raises the question of prison accommodation. The matter has not yet been discussed by the Mixed Commission, but I have mentioned it to M. Dupeyrat. We are of opinion that the present Moorish prison can be improved and made available for natives, but that it will be necessary to provide proper prison accommodation for foreigners. M. Dupeyrat at first suggested that foreigners should be sent to purge their sentence in the prisons of their own countries or else in those of the French or Spanish zones. I told him that I foresaw grave difficulties in either case; we could not send British subjects for imprisonment in England, and I much doubted being able to send them to a colony; I therefore was in favour of a suitable prison being constructed at Tangier.

Another point raised by Mr. Brunyate is the right of pardon, which certainly presents some difficulties. It appears to me that the responsibility should rest on one person, or at any rate on a very small committee; if the right of pardon is vested in a comparatively large body, the sense of personal responsibility is, to some extent, lost, and the members of that body are apt to vote in a sense they would not do, did the sole responsibility rest with themselves. The jurists have now, I understand, decided to recommend that the right be vested in a committee composed of two members of the Committee of Control and two judges.

I do not think that any other point in Mr. Brunyate's memorandum calls for comment from me, beyond the general statement that I entirely concur in his views so far as they deal with matters on which I am competent to offer an opinion. With regard to the last paragraph of the memorandum relating to the question of the nationality of the judges, I may add that I held the view that some provision should be introduced to obviate the possibility of partiality, or suspicion of partiality, on the part of the judge, should he be of the same nationality as one of the parties to the case. The question is a very delicate and difficult one, but I confess that I have entirely come round to Mr. Brunyate's view that, for the reasons he explains, it is preferable to take for granted the absolute impartiality of the bench, and to sink all question of nationality. I do not conceal from myself that this may give rise at first to much discontent and unfavourable comment, the public of Tangier having hitherto, unfortunately, been accustomed to see some Consular Courts exhibit decided bias towards its own nationals. This, I am told, is not the case in the Mixed Courts in Egypt, and I trust it is not Utopian to assume that the professional judges of the future International Court of Tangier will administer even-handed justice uninfluenced by any feelings of partiality towards their fellow-countrymen.

An important question still remaining open is whether consular tribunals should be maintained with criminal jurisdiction or whether they should be entirely abolished. There are good arguments in support of either side, but, personally, I am in favour of their complete suppression, and Mr. Brunyate is now of the same opinion. The Spanish Government, at first, took up their stand on the retention of their Consular Court. I fancy, however, they are really prepared to agree to its abolition, and intend to use the demand for its retention merely as a lever for obtaining the appointment of a Spaniard as "Avocat du Gouvernement" and a large proportion of Spanish magistrates on the bench. Though I am, as above stated, of opinion that the nationality of a judge should be lost sight of once he has been appointed, I attach importance to the question of nationality in the selection of the judges. On the other hand, one cannot but admit that the relative importance of the various foreign colonies must be taken into account, to some extent at least, in deciding the nationality of the judges to be appointed. The point was referred to at the meetings of the Mixed Commission, and it was decided, at M. Padilla's request, to invite the Commission of Jurists to discuss it and to furnish us with their observations on the subject, it being clearly understood that any opinion they might express would be in no way binding upon us. M. Dupeyrat and I made that reservation, as both M. Berge and Mr. Brunyate have stated that the matter is purely political, and is of no importance from the judicial point of view, except in so far as it may prevent the appointment of the best candidate if he does not happen to be of the nationality required. Mr. Brunyate informs me that he has noticed that his Spanish colleague's insistence on retaining the Consular Courts is weakening, and that he has now agreed

to the principle that, in any case, adequate powers must be given to the international tribunal to deal with certain classes of criminal cases.

In regard to the position of the "Avocat du Gouvernement," the French and Spanish jurists appear to be inclined to accept Mr. Brunyate's suggestion that it be assimilated to that of the Attorney-General in a British colony. Mr. Brunyate has prepared a note on the subject, which is now being copied, for submission to his colleagues, and it seems probable that on that point, as on so many others, they will come round to his views.

The jurists have decided to recommend that no Moorish judge should be appointed for the present, at any rate, the reason being that it would be difficult, if not impossible, to find a Moor fitted for the post. Later on, should any suitable Moorish candidate be available, the matter might be reconsidered. This does not, of course, refer to the Cadi's Court, which will be maintained for quasi-religious questions, such as personal status, filiation, marriage, divorce, succession as between Moors, &c.

It has also been decided that the State Bank, "Contrôle de la Dette," and other similar institutions, should be justiciable before the international tribunal as regards matters arising in the international zone, but not otherwise. This appears to me a very necessary provision, but some difficulty may arise on account of the special provisions as regards proceedings against the State Bank contained in article 45 of the Act of Algeciras.

I transmit herewith the *procès-verbaux* of the fourteenth meeting of the Mixed Commission, and the first seven meetings of the Commission of Jurists.

H. E. W.

Madrid, April 10, 1913.

Enclosure 2 in No. 81.

Memorandum by Mr. Brunyate.

THE note by M. Berge, on which my criticisms are invited, cannot usefully be discussed apart from the circumstances under which it was written and apart from some consideration of M. Berge's own personality. The fact by which I was most struck on first reading the note was the insistence on the merits of the Egyptian Mixed Courts and their suitability to serve as precedents. On that point I was prepared to express my definite dissent, both because experience leads me to believe that these codes are singularly devoid of merit and because, in the absence of any expression of dissent, it appeared possible that our tacit concurrence in the views expressed might be used, later on, as an argument for interfering as little as possible with the existing organisation of the Mixed Tribunals in Egypt whenever the question of the abolition of the capitulations in that country comes up for consideration.

I have, however, since had the advantage of some informal conversations with M. Berge. He tells me that the note was written at twenty-four hours' notice, at the request of the French Minister for Foreign Affairs. The internal evidence seems to show that it must have been written with M. Dupeyrat's note of last autumn before him, and I have found in the course of discussion that most of the passages which caused me anxiety M. Berge himself would wish to qualify. As regards the Mixed Civil Code, for instance, on my pointing out that any insistence in such a country as Morocco on the absolute ownership of French law as the only form of property in immovables was likely to cause trouble, M. Berge assured me that property in immovables he regarded as a matter to be separately dealt with, and favoured me with a very interesting description of the forms of such property which had come under his notice in Tunis. On my mentioning that the Egyptian Mixed Penal Code had never been put into force, and that the native penal code was, in my opinion, a much more useful precedent, he replied that in the preparation of the native penal code shortly to be promulgated in Tunis he had derived considerable assistance from the Egyptian Native Penal Code, and it was to that code that he ought to have referred. Similarly, on my expressing anxiety as to his adoption of the tripartite division of offences in French law into contraventions, misdemeanours, and crimes, as the criterion for the competence of his different Courts, he explained that his only object was to express a general idea in language which the Minister would readily understand, and that such tripartite division had not, in fact, been followed in the draft Tunisian Code.

It is, of course, true that the minor and sometimes accidental differences between

the laws of different countries offer ample scope for discussion to legal ingenuity; but my experience leads me to believe that, as regards such matters as commercial law, the law of contracts, and the principles of criminal law, the differences between the various systems are much less important than is ordinarily believed. In view, then, of the explanations offered by him, I felt no difficulty in assuring him—as I was, in fact, authorised by you to do—that, as to all such matters, we were prepared to recognise a French dress as the appropriate one for the substantive law to be adopted for the municipal zone. You will have observed that, as to judicial organisation and as to procedure, M. Berge recognises that a free hand must be used. In these circumstances, my rôle would appear more especially to be to submit for consideration some of the expedients for rendering the administration of justice in backward countries efficient, with which British colonial and Indian experience so richly provides us. So far as I can form an opinion, M. Berge appears to me a singularly broad-minded man, who would be prepared to consider sympathetically many of such suggestions. We could not, of course, expect the whole of them to be accepted; too great success would probably, in fact, provide too many points for discussion by one or other of the various authorities to whom any scheme agreed upon must later be submitted. There is also my Spanish colleague, M. Comulada, to be considered. He created a very favourable impression during the time he spent in Egypt, but I have no reason to believe that he has any experience of the special kind of conditions for which provision has to be made. Nor do I feel quite certain, notwithstanding M. Dupeyrat's assurances that the political and judicial questions are wholly distinct, how far that gentleman is really prepared to allow M. Berge a free hand. My hesitation under that head is based on a careful comparison between remarks made by M. Berge in M. Dupeyrat's presence and our somewhat freer discussions, when we have been alone, of his practical experience in Tunis.

I ought, perhaps, here to state that I feel somewhat anxious about the amount of work which lies before us. The fact is that you are proposing to create a State; and the fact that it will be a small State tends rather to increase some of the difficulties in the way of creating an efficient judicial organisation than materially to lessen the number of matters for which provision has to be made; while the international character of the proposed State adds complications of its own. It will probably be our duty to put forward as many suggestions as possible for diminishing the drafting essential to be done before the municipality can be set on foot; but in no case can the work be easy, and I should not anticipate that all the detailed drafting can be completed before the meetings in Madrid are concluded.

I understand that M. Berge has now prepared a more detailed note, copies of which will be available in a day or two. I am not sure that I should not have preferred an opportunity of discussing some of the more important questions of principle raised by his first note before another was written; and it may, of course, be the case that he has been instructed to proceed at once with his more detailed scheme in order to secure a more controlling position in our discussions. On the other hand, it may merely be thought that, as our discussions are to be carried on in the French language, he is the person naturally indicated for preparing the preliminary documents.

It appears to be the wish of yourself and your colleagues that your legal advisers should prepare, in agreement, as complete a scheme as possible for your subsequent consideration as a whole. I have already indicated to you that I think it probable that you have underrated the extent to which mere legal machinery raises questions with a political bearing. On the whole, I think it will probably be best if I attempt at this stage to submit for your consideration some of the more important points which will arise, following, as far as possible, the order of M. Berge's note. You will then be able to give me such detailed instructions as may appear to you to be called for, and, if necessary, to reserve a certain number of points for the consideration of the Foreign Office. In the meantime I should propose to adopt with my colleagues the line indicated by M. Dupeyrat that the opinions expressed by me are put forward on my own responsibility with a view to framing a scheme, and are in no way binding upon you or upon our Government.

Personnel.

Whether magistrates are appointed in form by the Sultan or by the Committee of Control in his name would not appear to me of great importance. In any case, the question is one for you, rather than for us.

Whether magistrates should be selected by the Committee of Control or by the various Powers is also a question for you. But it would appear to me very desirable that the selection should be made by the Committee and not by the Powers. It may be Utopian to hope that the Committee of Control will ever consent to sink political questions and to have regard only to the interests of the municipal zone; but our experience in Egypt goes to show that selection by the Powers results in each judge regarding himself as the representative of the Power to which he belongs—a system which I imagine you would wish to avoid.

The manner in which judges may be removed raises very delicate questions. I agree, and Egyptian experience shows, that there ought to be some means of getting rid of inefficient judges in the last resort; but I see objections to removal by the Committee of Control, even by a two-thirds majority. The Bench, according to English ideas, is the final protector of individual liberty against the executive, and I can conceive of circumstances in which it would be essential in the public interest that the Bench should feel itself reasonably independent of the good-will of the Committee.

A judge may require to be removed either on disciplinary grounds or because he has shown himself no longer fit to discharge his duties in a reasonably satisfactory manner. The judges of the Native Court of Appeal in Egypt are irremovable, but can be removed for disciplinary reasons by the General Assembly of the Court itself. The question of removal for unfitness has given rise in recent years to some not very seemly controversy. A solution was arrived at last year which appears a reasonable one. A judge may now be removed for unfitness by a Committee of his colleagues, on the motion of the executive. Five out of the seven members of the Committee must vote for removal, and the judge so removed receives exceptional treatment as to pension.

The Tangier Court will be so small that to leave disciplinary questions—and especially questions of removal for unfitness—to it alone might give rise to difficulty and would, in any case, place an undue personal responsibility on the colleagues of the judge whose conduct or capacity was under enquiry. It occurs to me that the difficulty might be met by associating with the full Court (say) two delegates of the Committee of Control chosen annually for this purpose. Or the delegates might be appointed for two years, retiring by rotation.

A judge appointed direct to the Native Court of Appeal in Egypt from outside the Government service is appointed in the first instance on probation for a period of two or three years, and the opinion of the Committee above-mentioned is taken before he is confirmed in his appointment. I do not like the provision in Egypt where the executive has a free hand in choosing its appointees. But you might think something of the kind desirable at Tangier, especially if the selection of the judges was to be left to the Powers and not to the Committee of Control. No such provision should, I think, apply to the judges first appointed.

I agree, of course, with M. Berge that it is sound policy to pay judges adequately; I would also urge that they should have pensions, and that pensions should be on a favourable scale. This renders possible an age limit—which is very desirable.

The number of judges chosen must depend in part on the amount of work to be done—at present an unknown quantity. I believe that M. Berge is at present considering the possibility of using consular officers as assessors with—as is usual in France—full voting powers. If it were at all probable that consular staffs would be maintained on the present scale, there would be much to be said for such a system, notably on the ground of economy. In that case, two professional judges with three assessors might constitute a possible full Court, and one with two assessors an inferior Court; and I should be inclined to attempt a beginning with three professional judges only. But I should anticipate that with the disappearance of consular jurisdiction, it will become increasingly difficult to obtain suitable judicial assessors: and if the system of judicial assessors cannot be adopted, I think you must be prepared for a full Court of three professional judges. With a fourth judge to provide for first instance work and unappealable petty cases, and a judge in reserve for contingencies, a minimum of a president and four judges is arrived at. With that number I should be inclined to make a start, giving powers to the municipality with the approval of the the Committee of Control, to increase the number if necessary.

I understand you to approve the principle that not more than one European judge should belong to any given nationality.

I further understand you to anticipate that Spanish, French, and British, judges would be appointed in practice, though you would wish that no definite undertaking

should be given in that sense. It is, however, fairly clear that definite undertakings will be pressed for, and I shall be agreeably surprised if you prove able to avoid them. We have had them to the full in Egypt in connection with the mixed tribunals, and I know of nothing to recommend them. I do not know whether you could make any use of the principle of equality of treatment between the Powers. As the agreement to be come to has to receive the assent of all the Treaty Powers, it would appear logical that if any undertakings are to be given they should be given all round, and this is fortunately rendered impossible by the limited number of posts available. A middle course would be to agree that France, Spain, and Great Britain, should be represented in the original appointments and in filling up vacancies for (say) five years, the Committee thereafter to be left free.

I see that M. Berge proposes to have two Moorish judges, but I understand from you that no suitable Moors are at present available. The sentimental reasons for their appointment are obvious, but it seems a pity to sacrifice efficiency to sentiment beyond a certain point. The question is one that cannot be left for subsequent discussion by you and your colleagues, both because its solution would have an important bearing on the total number of judges, and, because if there are to be Moorish judges, we shall have to consider whether a single Moorish judge can try Europeans, &c. The possibility of appointing Moors, whenever there shall be suitable ones available, might be indicated by adding to the provision that not more than one judge shall be of any given nationality a proviso that in the case of the Moors there may be two, or an express provision might be added that the Committee of Control shall appoint one or two Moorish judges so soon as suitable Moors are available.

I believe it to be in the public interest that the prerogatives and prestige of the president should be as extensive as possible. An international tribunal is irresponsible both to Government pressure and to the force of public opinion, and, unless you can find a suitable president with both a sense of responsibility for the success of the institution and the prestige necessary to secure the willing co-operation of his colleagues, I fear things will go badly. The office should, I think, be a separate one, with higher pay. His powers in respect of the staff should be as wide as possible, though for some purposes he would no doubt require to have associated with him Committees of his colleagues. Probably appointments and promotions of staff should require to be approved by the Committee of Control.

The proposed Government advocate is, of course, intended to be a kind of procureur-general. As such I am not sure that he would normally have sufficient employment, and at the same time the Committee of Control will require a legal adviser. I should be inclined to try and get his position assimilated in certain respects to that of the Attorney-General in a British Crown colony. I think it will probably be found that he needs an assistant.

Fonctionnement.

(a.) Au Pénal.

In his note, M. Berge distinguishes, for the purposes of competence, between contraventions—punishable up to one week's imprisonment or a fine of something like 11.—misdemeanours—punishable under French law with imprisonment up to five years—and crimes—punishable with heavier penalties.

The special importance of the dividing line between contraventions and misdemeanours is that, in French law, violations of municipal bye-laws are considered to be properly punishable with contraventional penalties. Our experience in Egypt had been that such penalties tend to be insufficient, especially if—as in Egypt—difficulties in the way of legislating result in matters, for which severer penalties are required, being dealt with by bye-laws. I drew the attention of M. Berge to this fact in conversation, and in his more detailed scheme, a copy of which I have now received, he raises the critical penalties to a month's imprisonment and a fine of 100 fr. He would in no case allow appeal, a provision for which some justification is to be found in the French rule, that appeal is suspensive of execution.

The question of appeal is a difficult one, but I do not like the idea of a respectable Englishman being sentenced to a month's imprisonment by a single judge without the right to appeal. A judge who is trying a large number of petty cases without appeal

is apt to go fast, and occasionally to dispose of cases without due consideration. We had the difficulty in Egypt, where appeal was largely used for dilatory purposes, and, in revising the Code of Criminal Procedure in 1904, we finished by allowing appeal against all sentences of imprisonment, the appeal not being suspensive of execution unless bail is given. I should incline to recommend the same system for Tangier.

If this were done I should rather incline to raise the critical penalty to three months' imprisonment, and to provide that in such cases prosecutions should, in principle, be by the aggrieved party or the police, to the exclusion of the "parquet" (Government advocate). We introduced that system in Egypt in 1904, with critical penalties of a month and 2*l.*, and the penalties have since been raised to three months and 5*l.*

But the point on which I should wish especially to insist is the inconvenience of a hard and fast division of offences into watertight compartments, tryable by different tribunals, according to maximum penalty.

The point arises both as to the division between contraventions and misdemeanours and as to that between misdemeanours and crimes.

Under the first head the typical case is that of assault and battery without aggravating circumstances, the maximum penalty for which is, I believe, under French law, one year's imprisonment. The vast majority of cases falling under this head are adequately punished with imprisonment not exceeding fourteen days, but I believe it to be impossible to frame any legal definition distinguishing those petty offences from more serious ones calling for penalties up to six months or a year. Yet it is a waste of judicial time to have an elaborate enquiry and a full-dress trial before a judge and two assessors for every petty case. The natural remedy, according to English ideas, is to allow all cases to be brought in the first instance before a police magistrate, who can try them and pass sentence up to one or three months, as the case may be, independent of the maximum penalty, or may send them to the more formal Court if he thinks such penalties insufficient. The hard and fast division between misdemeanours and crimes is in some respects more serious. To my mind a penalty of five years' imprisonment is much too serious a one to be passed by a single judge, even with two assessors. I should hesitate, indeed, to give power beyond one year's imprisonment, or, at the outside, two. But if this is to mean that no offence may be so tried, the maximum penalty for which exceeds two years, the Assize Court will be swamped. I have to admit that I and those who think with me have not yet succeeded in getting this principle admitted in Egypt; but examination of the judicial statistics there shows that much valuable time of the Assize Courts is now wasted in cases which result in sentences that might very well be passed by a single judge, and that the number of sentences passed by summary judges which exceed the limits I have suggested is so small that the transfer of the cases in which they are passed to the Assize Court would add but little to their work. And at the same time we are debarred from increasing the maximum penalty—admittedly insufficient—for certain offences because to do so would mean overwhelming the Assize Courts with all the petty cases falling under the same definition in the code.

The suggestion that assessors should be used raises the interesting question whether they should be assessors in the French sense—with votes—or in the English sense—without. I confess that I do not like the idea of a judge being outvoted by his two assessors, whether they acquit when he would convict or the other way. On the other hand, you remarked to me in conversation that the assessors of our British Consular Courts are apt to be little more than ornamental. I understand that view; but the recorded opinions of the assessors may be useful in appeal, while their mere presence may prevent the judge from unduly hurrying his cases.

In the Assize Courts, if the assessors are to have votes, I should prefer to limit their number to two, so that they could not outvote the professional judges if the latter were unanimous. I should, however, prefer to do without them altogether, except that I think that native assessors, provided they had no votes, might be very useful in the case of the trial of natives, because they could sometimes give the Court valuable information as to native usages and ideas of a nature to modify the sentence to be passed.

I may say that I have sent to Cairo for copies of the Native Penal Code, with an explanatory note in French, in which some of the above ideas are discussed, and also for a recent law as to judicial organisation in Sinai, where native assessors are to be employed.

It would appear to be at this point that I may usefully discuss a certain number of points as to criminal procedure.

The first is that of vexatious arrest and domiciliary searches—an aspect of the protection assured to Europeans by Capitulations that is almost more important than that of exemption from the jurisdiction of the local Courts. It has to be borne in mind that, under continental codes, powers in these matters are possessed, in cases of flagrant delict, by police officers and others, that are capable of being very oppressively used. The fact that the municipal zone will be very limited in area would, I think, justify insistence on warrants of arrest or search warrants issued by a magistrate in all but very extreme cases. I should at least like to know what type of official will be available as officers of judicial police.

I do not know whether you have yet considered the question of prison accommodation. I hesitate to use such terms as imprisonment, "réclusion," and "travaux forcés" in the Penal Code without knowing what they were going to mean in practice. Are you prepared to recommend any special provisions for Europeans? I should rather incline to recommend a distinction between simple imprisonment and imprisonment with labour, and to allow two classes of simple imprisonment to meet the case of persons of European habits, and to have no other penalties restrictive of liberty other than imprisonment and "travaux forcés" (penal servitude), imprisonment always being allowed as an alternative to "travaux forcés."

Have you considered in whom the right of pardon and of commuting death sentences is to be vested? I should incline to a Sub-Committee of the Committee of Control, who should consult with the president.

There are some provisions as to "charges"—borrowed from India—in the Egyptian Assize Court law that I should like to bring to the notice of my colleagues if I can get a copy. They seem to me much preferable to the French "acte d'accusation." Fortunately they are in French.

I may, perhaps, also refer here to the question of minimum penalties, so usual in French legislation. I was successful in getting rid of them in Egypt for all misdemeanours in 1904, and the results I believe to have been wholly good. I failed as regards crimes, and have always regretted my failure. Judges of the Court of Appeal have repeatedly told me that they are compelled to pass sentences which they regard as unjustifiably severe. In the case of Morocco there is the strong argument available that the "mentality" of the native population is so wholly different from that of the countries from which we shall be borrowing our Penal Code that it would be unjust to preserve the minimum penalties, even if they can be considered to be justified in the countries with regard to which they were originally fixed.

(b.) *Au Civil et au Commerce.*

Not much occurs to me under this head.

I should be glad to know what you consider a proper limit of value for non-appealable petty cases. 20*l.* is the limit in Egypt, but it has always appeared to me rather high for the native peasantry. I do not underrate the advantage of prompt and final settlement of disputes, but a judge is apt to hurry through his list of petty cases, and the trial of cases in the neighbourhood of 20*l.* ought not to be unduly hurried.

Our Egyptian codes, if I remember right, include under the final competence of the summary judge a few other miscellaneous matters in connection with leases, &c. The point will require examination.

One of our difficulties in Egypt as to non-appealable cases is that they sometimes raise very important questions of law. To quote a minor instance, the question whether the railway administration had power to charge for admission to station platforms was raised in an action for the return of the sum of 1*d.* paid under protest. We lost at least one case, and there was no possibility of appeal. I should myself be rather inclined to admit appeal in all cases on points of law, but under such conditions that the rights should not be abused. Permission to appeal might be required, but such a provision would be rather foreign to French ideas. Alternative suggestions would be that the judgment should in any case be executory notwithstanding appeal; that court fees should be payable on a somewhat higher scale, and that costs given against the appellant in the Court below should in no case be returned.

As regards assessors in the summary court, it might be possible to leave it to the parties, or either of them, to require that a case should be tried with assessors, especially if the assessors are of the English type.

I notice that it is not suggested that the full Court should sit with assessors.

It seems to me that, especially if there are no native judges, native assessors might be useful, to whom the Court might have recourse for information as to native law and custom. I mentioned land cases to you as cases in which such a provision might be useful, at any rate until the native land law has been sufficiently declared by judicial decision.

It is here that M. Berge mentions the rule that no judge should sit both in first instance and appeal. You tell me that you doubt the utility of the law, and I agree that there is much to be said for your view. Such is especially the case if, as M. Berge would appear to intend, the "juge commis" is to play a preponderant part in appeal. The judge who had already heard the case in first instance would appear to be specially indicated for performing most of the duties of the "juge commis." And it should not lightly be assumed that a judge who had already heard the case could not maintain an open mind. He would have for the first time the advantage of seeing how the case struck other trained minds.

(c.) *Dispositions communes aux deux Ordres d'Affaires.*

M. Berge's suggestion practically amounts to the adoption of the Federal Court of Lausanne as a Court of Cassation.

I am, personally, strongly opposed to any such provision. I should for one thing hope that with a reasonable amount of experience the judges of the Tangier Court would be better exponents of Tangerine law than those of the Court at Lausanne. And it is, I think, very desirable that they should be encouraged to accept the responsibility properly incident to a Court of final jurisdiction.

I do not overlook the advantages resulting from the existence of the Judicial Committee of the Privy Council as a Court of Appeal in exceptional cases from all British Courts of justice outside the United Kingdom, but even if the cases could be assimilated in other respects it would be impossible to subject the right of recourse to Lausanne to special leave from the Federal Court, and it is the need for special leave that alone renders the Privy Council procedure a workable one.

As regards private rights it would be possible to allow some kind of special recourse, with or without leave, to the Court sitting in General Assembly. Beyond that the best remedy for a current of wrong decisions is to allow reasonable legislative freedom to the new State.

It may further happen that important constitutional questions will occasionally be raised by judicial decisions of the Court. I should see less objection to the reference of such questions either to Lausanne or to The Hague by a two-thirds vote of the Committee of Control. In that case I think that the whole expense of the reference should in any event be borne by the State Treasury.

Competence.

The suggestion that foreigners of the same nationality should be allowed to refer their disputes to their consuls raises an interesting question that might, perhaps, be more properly discussed under the head of "legislation"—the question of the conflict of laws.

You raised the question why any special provision should be inserted as to the matter, and what objection there was to treating a reference to the consuls on the same footing as a reference to any other arbitrator. The real object of the provision is, I suspect, that the consul would be expected to decide according to the national law of the parties, while it is assumed that the Court would decide according to its own codes which might be in a different sense. So far as it is proposed to have a reference to the consul because the parties may have more confidence in his judicial capacity than in that of the Court, I incline to agree with you that any such sentiment ought not to be encouraged by the insertion of any special recognition of his position.

Possible conflicts of law are, however, more serious. But the proper remedy is, in my opinion, not that of allowing a reference to the consul, but that of providing that the International Court shall apply foreign law to cases which are properly governed by it.

The point has repeatedly arisen in Egypt, more especially in cases in which natives have contracted according to native law, and the importation of a foreign party into the case has led to its being brought for decision before the Mixed Courts. The Mixed Courts in such cases apply exclusively mixed law, and they are probably

justified in doing so by the fact that their organic law directs them to apply such law in cases in respect to which they have jurisdiction. And I notice that M. Berge, in his second note, has used words which would produce the same effect at Tangier.

I am not sure how far the French practice as to the conflict of laws is the same as our own (as to which Dicey is my guide), but I should propose to take the matter up with my colleagues, and if a satisfactory arrangement can be come to under that head, I should propose the omission of the provisions under discussion, noting only that the provisions of the Code of Civil Procedure as to arbitration should be sufficiently wide to allow reference to the consul on the same footing as to anyone else. If there should prove to be any idea that the consul would have special power of compelling the attendance of his own nationals as witnesses, &c., I should propose to combat the idea.

I presume that it will not be contended that Moors alleged to be domiciled in the French or Spanish Protectorates are Frenchmen or Spaniards for the purposes of a reference of their disputes to the consul.

The question of personal status raises very difficult and delicate points. I expressed to you a doubt whether M. Berge really intended that the Court should have power to decide questions of personal status as regards persons other than native mussulmans or jews, more especially as M. Dupeyrat, in his note of last autumn, spoke of the Egyptian Mixed Civil Code as especially suitable to be followed on the ground that it did not deal with personal status. M. Berge's second note is, however, quite specific in limiting the exceptions to the two cases just referred to.

You are, of course, familiar with the two schools of thought—what may be called the continental one, according to which personal status follows nationality, and the English one, according to which, broadly speaking, it follows domicile. And in Morocco you will have been accustomed to a third, which holds good over a large part of the East, according to which it is regarded as following religion.

Every one of the three breaks down under some circumstances. We have ourselves been unable to carry our theory with us to India, where, however, I believe we have created a statutory status for domiciled East Indians, and I suspect that it would break down in England if we ever came to have a large alien population with customs radically different from our own. Further, we are only able to keep it on foot in the Ottoman Empire by means of the legal fiction that British subjects cannot acquire a domicile there. France has found insuperable difficulties in the application of her theory in Algiers, and has, I believe, turned them by granting full French citizenship only to such Algerians as were willing to abandon their old rules of status. And M. Berge tells me that in France itself the Courts have found it necessary to adopt a hybrid position as regards foreigners resident there who have been admitted to the privileges of domicile. Finally, under the Eastern system, converts to certain Christian faiths are left without any rules of status at all.

That there are not even greater difficulties in Europe results, as it appears to me, from the fact that, under the rules as to nationality, domicile and nationality can seldom remain distinct for more than one, or at the most two generations. In Tangier, as you are proposing to keep nationality alive independently of birthplace, that means of escape will not be open to you.

Certain things are, I think, essential. It is, for instance, essential that the International Court should have power to decide questions of personal status for the purposes of any suit in which they arise incidentally only.*

Egyptian experience shows that the delays resulting from any other rule are such that the Courts tend to usurp this power, even where the law is framed in a contrary sense.

It would also, I think, be convenient to have a uniform age for attaining majority for the purposes of contracts concluded by foreigners in Tangier, subject to the recognition of any national rule if it had been sufficiently brought to the notice of the other party. French case law is in this sense, but would break down if no standard age existed.

Again, persons long resident in Tangier may become so unfamiliar with the complexities of their national law that it would probably be a convenience to have a local law as to the formalities constitutive of a valid will. This would, of course, be supplemental to any national law, and not in conflict with it. It has also to be borne in mind that persons of different nationality may be interested in the same succession, that there may be foreigners who have no consuls, and that there may be persons without nationality, or with more nationalities than one.

* I am now in a position to say that both my colleagues concur in this view.

In view of these facts I feel that completeness would require, even if jurisdiction is left to the Consular Courts, that where there is no competent Consular Court the International Court should be competent, and should apply the national law of the parties. If the national law recognises distinctions according to race, religion, or domicile, they should be applied according to race, religion, or place of origin. And there should, I think, be a short code of personal status—probably following French lines—on which the Court could fall back in the last resort.

If some such scheme were carried out, my own feeling would be that it would then become possible to provide for the voluntary surrender by the Powers of their jurisdiction in matters of personal status, and I should scarcely think that it would be necessary to retain the British consular jurisdiction as to such matters if it were abandoned for all other purposes, and if the International Courts were found to work in a reasonably satisfactory manner.

I need not say that my remarks as to personal status are made as much in view of the future in Egypt as of the present requirements of Tangier.

I would add that, even as regards native Mussulmans and Jews, I feel that the general exception as to this personal status ought not to prevent adequate measures being taken for the protection of the estates and interests of minors and of other persons under disability.

I concur, of course, in the view that the municipality and other international institutions at Tangier should be subject to the jurisdiction of the International Court. Having discussed the matter with my colleagues, we are all of opinion that this jurisdiction should replace that of administrative tribunals on French lines, subject to such safeguards against undue interference with administrative action as exist in Egypt. We agree that this jurisdiction should extend to the State Bank, Public Debt Commission, &c., but only so far as relates to matters connected with the municipal zone. It is possible that the rules already made as to the State Bank, &c., may cause difficulty.

Legislation.

The principal legislation to which M. Berge refers consists of a set of Codes. As already stated, I should propose somewhat strenuously to protest against any idea that the Egyptian Mixed Codes are suitable as models. The writing of this note has continued until a stage at which I have been able to ascertain something of the views of my colleagues, and I am now in a position to report that M. Berge is not likely to insist on the merits of those Codes, while M. Comulada's Egyptian experience has left him under no illusions in the matter. M. Berge's real preference would appear to be for the Tunisian Codes, which he has had a large share in preparing. I should be prepared to give to these a favourable consideration, and there are, of course, other precedents available.

I proceed to take the Codes in order.

Civil Code.—As already stated, M. Berge agrees that the law as to immovables ought to be taken out of the code and formed into a separate code. The substantive law to be contained in such land code would presumably be based on the Shari'a, so far as the same is found to be really in force in Morocco, with such modifications as may be required by local native usage or by European practice. As special rules of personal status will either not be required or will be of very limited application, there remains only what may be called the law of obligations. So far as I am aware the differences under this head between different modern codes relate rather to refinements of expression than to anything of essential importance. I should advise accepting anything that may be proposed by any competent draftsmen familiar with such matters, subject only to any detailed criticism that may occur to us.

Commercial Code.—We must, of course, follow French models. The Egyptian Code is badly out of date.

I should like to see non-traders put on the same footing as traders in respect to bankruptcy, and to introduce something on English lines as to discharge. The question of limited liability companies will require careful consideration. I should fear that we cannot do without provisions as to maritime commerce.

Penal Code.—I should be glad to see the Egyptian Native Penal Code taken as a basis. It would, however, need further revision—the process of revision in 1904 having been admittedly incomplete. I am looking forward to seeing the draft Tunisian Code.

The question of offences committed outside the municipal zone by persons domiciled there will require consideration.

Code of Civil and Commercial Procedure.—It appears to be admitted that civil procedure ought to be as simple as possible. There is a good deal in the French Code that might almost more properly be treated as substantive law and inserted in the Civil Code. I have obtained copies of the Soudan Civil Justice Ordinance, some of the provisions of which would appear suitable for submission to my colleagues. I helped to draft it in 1899. I should like, if possible, to leave some part of the procedure for rules of Court.

Code of Criminal Procedure.—I am at present considering the possibility of finding a half-way house between the French idea of a "ministère public" and that of British colonial procedure. The task is not utterly impossible, and my colleagues have promised to listen to anything I may have to say; but I should be very agreeably surprised if I succeeded in convincing them.

As regards future modifications in legislation M. Berge refers to the recent Egyptian precedent under which the General Assembly of the Mixed Court of Appeal has wide legislative powers. I cannot pretend to be a warm admirer of the Egyptian practice, as I do not think the judges have ordinarily a sufficient knowledge of business requirements. I should prefer legislation by the municipality subject to a veto vested in the Committee of Control. The veto might possibly be exercisable by a varying proportion of the Committee according to the type of legislation. The tribunal might very properly be consulted about any legislation affecting the administration of justice, and might even have an independent legislative power in respect to rules of Court, &c., subject to the usual veto.

You will observe that under this head M. Berge alludes to the utility of provisions preventing too large a proportion of the persons engaged in any way in dealing with particular cases from belonging to the same nationality as one of the parties. I confess that anything on these lines appears to me open to very grave objections. I have no doubt that national susceptibilities will be acute for some time in the municipal zone; but I should imagine that the best way of fostering them would be to admit publicly that they are to be looked for as a matter of course on the Bench.

I fear that this note, written at different times, without my earlier manuscripts before me, may be somewhat lacking in continuity. Points outside it will also arise. It will, however, enable you to give me any general instructions necessary. And I am happy now to be in a position to assure you that any proposals put forward on behalf of the British Government will receive singularly open-minded consideration from both my colleagues.

W. E. B.

Enclosure 3 in No. 81.

Procès-verbal of Fourteenth Meeting of Tangier Mixed Commission, held April 1, 1913.

LA Commission mixte d'organisation du régime du Tanger s'est réunie au Palais du Ministère d'État le mardi 1^{er} avril à 10 heures et demie.

Le procès-verbal de la précédente séance est adopté.

M. Dupeyrat expose que M. Berge l'a mis au courant de la conférence que les trois juristes adjoints à la Commission ont tenu la veille. Il semble résulter des déclarations de M. Comulada à ses collègues que le délégué espagnol à la Commission mixte n'est pas autorisé à envisager le dessaisissement de la juridiction consulaire espagnole à Tanger. M. Dupeyrat serait heureux que M. Padilla voulût bien donner quelques indications à ce sujet. C'est là une question de principe importante qui devrait être tranchée avant l'élaboration du futur système judiciaire.

M. Padilla répond qu'en effet son Gouvernement est disposé à examiner dans quelle mesure un tribunal international pourra être chargé de rendre la justice en matière civile sous certaines réserves en ce qui concerne les questions de statut personnel. Mais il ne lui paraît ni nécessaire ni même désirable qu'au pénal le régime en vigueur soit modifié, sauf peut-être en matière de simples contraventions.

Mr. White considère que si ce point de vue était maintenu par le Gouvernement espagnol et finalement adopté, le bon fonctionnement des futures institutions tangéroises serait impossible. Il n'a pas reçu d'instructions impératives en la matière et il croit

même pouvoir dire que le Gouvernement britannique n'a pas arrêté son parti sur la question de savoir s'il y a lieu de limiter ou non et dans quelle mesure la compétence répressive à donner à la juridiction internationale. Pour sa part, il est porté à la suppression complète des tribunaux consulaires en raison des difficultés presque inextricables qui résulteraient de leur maintien. Mais il reconnaît que la question de la justice criminelle est des plus délicates et mérite un examen approfondi.

M. Dupeyrat s'associe entièrement aux observations de Mr. White. Il déclare que tout d'abord il avait semblé au Gouvernement de la république que le tribunal international pourrait ne pas recevoir de compétence criminelle, à cause des moyens limités dont on dispose pour la constituer. Mais un nouvel examen a fait ressortir les inconvénients signalés par Mr. White et le délégué français a toute liberté pour rechercher la solution la meilleure. Il tient en tout cas à spécifier qu'il ne désire conserver aucune part d'autorité aux tribunaux consulaires. Il estime que le seul moyen d'assurer une bonne justice dans le Maroc nouveau est d'unifier le système judiciaire de chaque zone, sous le contrôle de l'autorité locale.

M. Padilla demande que la discussion de principe engagée soit suspendue jusqu'à ce que les trois juriconsultes aient achevé leur échange de vues personnelles sur cette question de compétence.

La séance est levée à 1 heure et demie.

Enclosure 4 in No. 81.

Procès-verbal of Preliminary Meeting of Tangier Jurists' Commission, held March 29, 1913.

LA Commission se réunit à 5 heures au Palais du Ministère d'État.

M. Berge remet à ses collègues un avant-projet d'organisation judiciaire à Tanger.

Les trois délégués échangent des vues en ce qui concerne la nature de leur tâche et la méthode à suivre dans leurs travaux, et décident de se réunir le 1^{er} avril à 4 heures, au Ministère d'État.

La séance est levée à 7 heures et demie.

Enclosure 5 in No. 81.

Procès-verbal of First Meeting of Tangier Jurists' Commission, held March 31, 1913.

LA Commission s'est réunie à 4 heures au Palais du Ministère d'État.

Les trois délégués sont d'accord pour prendre comme base de discussion la note de M. Berge contenant l'esquisse d'un projet d'organisation judiciaire internationale à Tanger.

En conséquence, il est procédé à l'examen du paragraphe préliminaire de ladite note, paragraphe qui prévoit la création d'une juridiction internationale qui viendrait prendre la place de la juridiction indigène et des juridictions consulaires.

La Commission estime que la question du maintien ou de la suppression de la juridiction consulaire offrant une grande complexité, la discussion pourra être simplifiée en l'examinant séparément pour ce qui concerne chacune des branches du droit. Il est donc décidé qu'on examinera séparément les quatre matières suivantes :—

- Statut personnel ;
- Régime de la propriété foncière ;
- Rapports de caractère civil en général ; et
- Justice répressive.

(a.) *Statut personnel.*

M. Berge se prononce en faveur de l'unité de juridiction et souhaite que le tribunal international à créer soit compétent en matière de statut personnel. Il appliquerait la loi nationale de chacune des parties ce que n'offrirait pas des difficultés sérieuses, le tribunal pouvant avoir recours aux moyens qu'il jugerait nécessaires pour éclairer sa religion. M. Berge ajoute que son expérience dans les tribunaux tunisiens lui permet d'affirmer que ce système ne présente pas des inconvénients considérables.

M. Comulada estime que le statut personnel devrait être de la compétence des juridictions consulaires. A son avis, la matière est extrêmement délicate et le statut

personnel de chaque pays est le résultat d'un long processus juridique où il faut tenir compte d'un ensemble d'éléments et d'influences dont la connaissance approfondie est nécessaire pour une application parfaite des préceptes de la loi. Il considère qu'il serait extrêmement difficile pour un étranger de s'assimiler l'esprit des différentes législations d'une façon suffisante et croit que les avantages qui pourraient résulter d'une juridiction unique en matière de statut personnel ne compenseraient pas les inconvénients auxquels cette unité exposerait les parties.

Mr. Brunyate croit que la question de juridiction en matière de statut personnel n'a pas une importance bien considérable. Le seul danger contre lequel il juge nécessaire de se mettre en garde est celui qui résulterait si les parties pouvaient entraver l'action du tribunal international dans les matières de sa compétence en soulevant des questions de statut personnel dans un but purement dilatoire.

Après un échange de vues, la Commission décide que rien ne s'oppose au maintien de la juridiction consulaire en matière de statut personnel, à condition qu'il soit réservé au tribunal international le pouvoir nécessaire pour éviter que les parties puissent porter entrave à son action en soulevant des questions de statut personnel dans un but purement dilatoire.

M. Berge fait remarquer qu'il peut se rallier à cette solution en voie subsidiaire et tout en maintenant son avis favorable à la juridiction unique.

La séance est levée à 7 heures et demie, pour être reprise le lendemain à 4 heures.

Enclosure 6 in No. 81.

Procès-verbal of Second Meeting of Tangier Jurists' Commission, held April 1, 1913.

LA Commission se réunit à 4 heures au Palais du Ministère d'État.

Régime de la Propriété foncière.

La Commission procède à l'examen de la question de juridiction en matière de propriété foncière. Les trois délégués sont d'avis que les questions foncières doivent être soumises au tribunal international. Ce tribunal devra appliquer une loi foncière dont la création est considérée nécessaire. Cette loi établira le régime de la propriété en tenant compte des usages locaux bien établis.

Juridiction civile.

M. Berge croit qu'il y a lieu d'établir la compétence du tribunal international dans toutes les questions de droit civil en dehors du statut personnel. Le tribunal devra appliquer un Code civil spécialement élaboré à cet effet.

Mr. Brunyate partage cette manière de voir en fait remarquer que ce tribunal devra, quand il y aura lieu, appliquer les lois étrangères suivant les principes du droit international. Mr. Brunyate ajoute qu'il a eu l'occasion de constater les graves difficultés qui résultent des conflits en matière d'exécution de décisions émanées de juridictions différentes, ce que fait ressortir les avantages de l'unité de juridictions. M. Berge appuie cette observation.

M. Comulada préférerait le maintien de la juridiction consulaire dans les questions civiles entre parties d'une même nationalité ; toutefois, en voie subsidiaire, il peut se rallier sur ce point à l'opinion de ses collègues et accepter la compétence du tribunal international en réservant aux parties de même nationalité la liberté de se faire juger par leur consul agissant comme arbitre.

Juridiction répressive.

M. Berge déclare qu'il doit se montrer intransigeant sur ce point, car il estime que l'unité de juridiction est essentielle. A son avis, on ne pourrait tolérer l'inégalité qui résulterait de l'application de peines différentes pour un même crime suivant les différentes lois nationales ; il ajoute que les tribunaux consulaires n'ont qu'une compétence limitée, qui ne comprend jamais les crimes, et voudrait avoir à Tanger une organisation ayant juridiction répressive complète. Le système préconisé par M. Berge aurait l'avantage de faciliter la répression et de la rendre égale pour tous les délinquants. Mr. Brunyate dit qu'il ne doit pas cacher sa préférence pour la juridiction unique en matière répressive, mais qu'à son avis les deux thèses peuvent se défendre.

Mr. Brunyate attache une importance considérable à l'application des règlements de de caractère général à Tanger et voudrait qu'en tout cas le tribunal international puisse veiller à l'application desdits règlements ayant la faculté d'appliquer aux contrevenants des peines dont l'importance constituerait une garantie sérieuse.

M. Comulada se prononce pour le maintien de la juridiction consulaire en matière répressive. La colonie espagnole à Tanger est de beaucoup la plus considérable et elle se compose en grande partie de gens dépourvus de ressources ou n'ayant d'autres moyens d'existence qu'un travail manuel, qu'ils ne parviennent pas toujours à s'assurer. La proximité de l'Espagne et par conséquent la facilité de pouvoir faire le voyage presque pour rien explique l'affluence d'Espagnols appartenant à la classe pauvre. La situation de ces gens devant leur autorité consulaire est extrêmement facilitée par l'emploi de la même langue, par l'application des lois qui sont les leurs et par le fait que le consul jouit auprès d'eux d'une autorité que rien d'autre ne saurait remplacer. Et quelle que soit la perfection de l'organisation judiciaire à créer, elle ne pourrait présenter au point de vue de la justice répressive les avantages de la juridiction consulaire. En plus, au point de vue du principe, il ne faut pas perdre de vue que la juridiction consulaire ne serait pas abandonnée au profit d'une Puissance ayant une autorité pleine et conséquemment une responsabilité absolue, mais au profit d'une institution qui, si parfaite qu'elle soit, ne peut en aucun cas offrir les mêmes garanties.

M. Berge dit qu'il croit devoir maintenir son point de vue contraire à la coexistence de plusieurs juridictions.

M. Comulada dit qu'il y aurait peut-être moyen de trouver une formule de conciliation en réservant la question de maintien ou suppression des juridictions consulaires pour une date ultérieure. Cela permettrait de se rendre compte du fonctionnement du tribunal international et la question pourrait être discutée sur une base plus solide.

Mr. Brunyate croit que cette proposition mérite considération. M. Berge ne peut se rallier à cette proposition. Mr. Brunyate dit qu'on pourrait peut-être trouver une autre formule de conciliation tout en maintenant l'unité de juridiction.

Cette formule pourrait consister à décider que l'avocat du Gouvernement serait de nationalité espagnole.

La séance est levée à 7 heures un quart, pour être reprise demain matin à 10 heures et demie.

Enclosure 7 in No. 81.

Procès-verbal of Third Meeting of Tangier Jurists' Commission, held April 2, 1913.

LA Commission se réunit à 4 heures au Palais du Ministère d'État.

Elle aborde la question du Ministère public.

Après un échange de vues, les trois délégués sont d'accord à reconnaître qu'il existe pour la société le droit d'exiger la répression des infractions pénales et que cette action doit être confiée à un agent qui pourrait être appelé avocat du Gouvernement, qui devra avoir une grande indépendance et un fort traitement.

M. Berge estime que ledit agent doit être un magistrat et doit prendre rang dans le tribunal après le président. Il devra exercer l'action publique et au civil il lui incombe de veiller pour l'application de la loi.

Mr. Brunyate n'a pas d'objection à ce que l'avocat du Gouvernement ait une situation équivalente à celle que M. Berge lui signale dans le tribunal, mais à son avis ledit agent ne devrait pas être un magistrat. Il devrait avoir des responsabilités spéciales et être l'avocat des administrations publiques. En ce qui concerne l'application de la loi, son action n'est pas nécessaire, cette tâche incombant entièrement au tribunal, qui doit en avoir toute la responsabilité.

M. Comulada dit qu'en principe il serait plutôt disposé à avoir un avocat du Gouvernement faisant partie de la magistrature, mais il reconnaît que le système de Mr. Brunyate a l'avantage d'établir des responsabilités plus définies et cette considération pourrait le décider à l'accepter.

Il réserve, toutefois, son avis jusqu'à prendre connaissance d'une note que Mr. Brunyate se propose de rédiger sur ce sujet.

Les trois délégués sont d'avis qu'en tout cas l'avocat du Gouvernement devra veiller à la protection légale des mineurs et des incapables.

La séance est levée à 7 heures et demie, pour être reprise le lendemain à 10 heures.

Enclosure 8 in No. 81.

Procès-verbal of Fourth Meeting of Tangier Jurists' Commission, held April 3, 1913.

LA commission se réunit à 10 heures au Palais du Ministère d'État.

Elle examine la question de l'organisation judiciaire.

Mr. Brunyate demande à discuter en premier lieu la question des juges marocains au tribunal international. Il dit que, d'après les renseignements qu'il a pu recueillir à l'heure actuelle, le recrutement des juges marocains serait impossible.

M. Berge estime que la présence de juges marocains est nécessaire, étant surtout donné le fait que les tribunaux internationaux devront juger des procès entre indigènes. Il estime pourtant qu'il serait préférable que le juge unique soit toujours un Européen.

M. Comulada dit qu'on pourrait peut-être avoir des Marocains comme assesseurs en leur donnant simplement voix consultative.

Mr. Brunyate partage cette manière de voir.

Après un échange de vues, les trois délégués adoptent la formule suivante:—

"D'après les informations, dont la Commission qui étudie l'organisation internationale à Tanger pourra facilement contrôler l'exactitude, il serait difficile à l'heure actuelle de trouver à Tanger des indigènes ayant l'instruction professionnelle et l'expérience technique nécessaire pour leur permettre de remplir les fonctions de juges. Dans ces conditions, la Commission technique estime que pour associer l'élément indigène à l'œuvre de la justice internationale il y aurait lieu de nommer les assesseurs marocains ayant une voix consultative."

La Commission se prononce pour le système du juge unique en première instance.

Ce juge, délégué par l'assemblée générale du tribunal, connaîtra en dernier ressort de toutes les affaires civiles commerciales ou administratives dont l'importance ne sera pas supérieure à 250 pesetas hassani.

Mr. Brunyate dit qu'une affaire sans importance pécuniaire peut comprendre une grave question de principe. Il demande donc à ce que l'avocat du Gouvernement puisse autoriser l'appel de la décision dont il s'agit dans l'intérêt de la loi.

M. Berge et M. Comulada se rallient à cet avis et il est ajouté que cet appel serait sans effet suspensif, mais dans le cas où il serait admis il entraînerait la réformation du jugement.

(Il est décidé ensuite que la loi de procédure contiendra les prévisions nécessaires pour que le juge de première instance ait toute faculté pour ordonner sur requête, en dehors de l'audience, et dans le cas d'urgence, des mesures conservatoires et provisoires, à charge d'en référer au juge en cas de difficulté et toujours sans préjudice du fond et à charge d'appel.)

En ce qui concerne les litiges en matière civile, commerciale et administrative portant sur une valeur supérieure au taux de la compétence du dernier ressort, les trois délégués se rallient à la proposition de M. Berge conçue dans les termes suivants:—

"Un seul juge, délégué par l'assemblée générale, connaîtra, à charge d'appel et avec l'assistance d'un greffier et d'un interprète s'il y a lieu, de tous litiges en matière civile, commerciale et administrative portant sur une valeur supérieure au taux de la compétence en dernier ressort, à quelque valeur que puisse monter l'importance du litige. En matière civile l'exécution provisoire de ces jugements ne pourra être ordonnée nonobstant appel, avec ou sans caution, que s'il a titre authentique, promesse reconnue ou condamnation précédente par jugement passé en force de chose jugée. Toutefois, l'exécution provisoire pourra être accordée, avec ou sans caution, même si ces conditions ne sont pas réalisées, en matière d'expulsion de tiers, s'il n'y a pas de bail ou que le bail soit expiré, en matière de pension alimentaire ou de garde d'enfants, ou en matière commerciale."

"Le même juge pourra rendre ces ordonnances sur simple requête et en dehors de l'audience :

1. Pour permettre des assignations d'heure à heure, en cas d'extrême urgence ;
2. Pour la taxe des frais de justice ;
3. Dans tous les cas spéciaux prévus par la loi."

M. Berge estime que dans les procès entre indigènes le juge devrait s'adjoindre des assesseurs marocains.

Mr. Brunyate croit que les assesseurs ne devraient siéger que s'ils étaient réclamés par le juge ou par les parties. M. Comulada se rallie à cet avis.

La séance est suspendue, pour être reprise l'après-midi à 4 heures.

Enclosure 9 in No. 81.

Procès-verbal of Fifth Meeting of Tangier Jurists' Commission, held April 3, 1913.

LA Commission se réunit à 4 heures au Palais du Ministère d'État.

M. Berge dit que le principe du juge unique ayant été admis, il devrait y avoir des juges suppléants nommés suivant les mêmes règles pour éviter que dans les procès entre individus de plusieurs nationalités, le juge de première instance soit de la même nationalité que l'un des plaideurs.

M. Comulada dit que, à son avis, l'idéal serait que la nationalité des juges soit entièrement oubliée du moment où ils montent sur leur siège, et que le système de M. Berge mènerait au résultat contraire.

Mr. Brunyate partage la manière de voir de M. Comulada et croit que la mesure proposée par M. Berge aurait un effet déplorable en semblant justifier une méfiance envers les magistrats du tribunal.

La Commission étudie ensuite la question du tribunal d'appel.

Il est décidé que le tribunal d'appel sera composé de trois juges, et il est également décidé, sur la proposition de M. Berge, que la présence de deux assesseurs indigènes ayant voix consultative sera obligatoire quand il s'agira de l'appel d'un jugement rendu dans un procès où les parties soient indigènes.

La séance est levée à 7 heures et demie, pour être reprise le lendemain à 10 heures.

Enclosure 10 in No. 81.

Procès-verbal of Sixth Meeting of Tangier Jurists' Commission, held April 4, 1913.

LA Commission se réunit à 10 heures au Palais du Ministère d'État.

M. Berge dit que la Commission qui étudie l'organisation d'un régime international à Tanger ayant à s'occuper de décider quelles seront les personnes qui ne devront pas être inscrites sur les listes électorales pour l'élection des membres de la municipalité, elle a prié la Commission technique d'examiner cette question.

Après un échange de vues entre les trois délégués, la formule suivante est adoptée :—

"Ne doivent pas être inscrits sur les listes électorales :

- "1. Les individus condamnés à une peine privative de la liberté d'une durée de deux ans au moins.
- "2. Les individus condamnés pour vol, escroquerie, abus de confiance, attentats aux mœurs, abus des besoins, des faiblesses ou des passions d'un mineur, infractions aux lois sur la traite de blanches et soustraction de deniers publics.
- "3. Les officiers ministériels destitués en vertu de décisions judiciaires ou disciplinaires.
- "4. Les interdits et les faillis non réhabilités.

"Ne peuvent être inscrits que cinq ans après l'expiration de leur peine les individus condamnés à une peine privative de la liberté d'une durée de six mois au moins."

La Commission étudie ensuite la question des recours contre les décisions rendues par le tribunal d'appel en matière civile.

Après un long échange de vues il est reconnu par les trois délégués qu'en tenant compte de circonstances et de la nature spéciale du tribunal international ainsi que de sa composition, la création d'un tribunal de cassation ne doit pas être recommandée à l'heure actuelle ; et il est fait mention de ce tribunal dans le seul but de dire que la nécessité de sa création se fera peut-être sentir dans une époque assez éloignée.

Les trois délégués sont d'accord pour décider qu'une instance en revision pourra être ouverte, soit à la requête de la partie intéressée, soit d'office par l'avocat du Gouvernement contre toute décision de la juridiction internationale, même passée en force de chose jugée, même déjà exécutée, dans les cas suivants :—

1. Si les pièces qui ont servi de base à la décision ont été depuis reconnues ou jugées fausses.
2. Si, dans un même jugement il y a des dispositions contraires inconciliables.
3. S'il y a contrariété de jugements rendus en dernier ressort entre les mêmes parties et sur les mêmes moyens.
4. Si des incapables n'ont pas été valablement défendus.

Toute requête en revision sera accompagnée de la consignation d'une amende, qui sera prononcée en cas de rejet ; toutefois, le Ministère public n'a pas à faire de consignation.

La séance est levée à 1 heure et demie, pour être reprise le 7 courant à 4 heures.

Enclosure 11 in No. 81.

Procès-verbal of Seventh Meeting of Tangier Jurists' Commission, held April 7, 1913.

LA Commission s'est réunie à 4 heures au Palais du Ministère d'État.

Mr. Brunyate remet à ses collègues une note sur la juridiction en matière de statut personnel.

M. Berge et M. Comulada déclarent qu'ils se rallient en principe aux observations faites par Mr. Brunyate dans ladite note, qui est jointe au présent procès-verbal.

La Commission aborde la question de la compétence du tribunal international dans les affaires concernant la municipalité et les administrations de Tanger.

Après un examen minutieux du sujet, les délégués adoptent la formule suivante :—

"La municipalité et toutes les administrations de Tanger seront justiciables de la juridiction internationale. Il en sera de même pour les administrateurs marocains, la Commission de la Dette et la Banque d'État, mais exclusivement en ce qui concerne leurs affaires spéciales à Tanger."

La Commission déclare que cette proportion entraînera en ce qui concerne la Banque d'État et la Commission de la Dette des modifications aux arrangements actuellement existants. Elle estime que ce point échappe à sa compétence et qu'elle doit se borner à le signaler.

Il est décidé en outre que la juridiction internationale ne pourra soit accessoirement, soit principalement, ordonner les mesures dont l'effet serait d'entraver l'action de la municipalité ou d'une administration, soit en portant obstacle à l'exécution des règlements légalement pris par elles, soit en adjoignant l'exécution ou la discontinuation de travaux publics ou en en modifiant l'étendue et le mode d'application.

Mr. Brunyate dit qu'il se rallie au principe, mais qu'il doit faire quelques réserves pour la rédaction.

M. Berge et M. Comulada disent qu'il est entendu que ce texte est provisoire.

Les trois délégués sont d'accord pour décider que la juridiction d'appel pourra soit d'office, soit à la demande des parties ou de l'avocat du Gouvernement, renvoyer devant l'assemblée générale du tribunal en séance publique tout litige qui donnerait lieu à l'interprétation des règlements organiques de Tanger.

La séance est levée à 7 heures et demie, pour être reprise le lendemain à 10 heures.

Note by Mr. Brunyate on Personal Status.

LA Commission technique s'est déclarée d'avis que le tribunal international, dûment saisi d'une affaire de sa compétence, doit avoir compétence pour trancher, mais exclusivement aux fins du procès dont il est saisi, toute question préjudicielle, même de statut personnel.

Elle a définitivement écarté de la compétence du tribunal international toute question de statut personnel par voie principale et intéressant les indigènes musulmans ou israélites.

Et elle était en outre d'avis qu'il n'était nullement essentiel que les questions de statut personnel en général fussent englobées dans la compétence dudit tribunal.

Mais même en laissant debout la juridiction des tribunaux consulaires en matière de statut personnel des questions devront forcément se présenter qui ne seront de la compétence d'aucun tribunal consulaire.

Parmi ces cas citons :—

1. Celui d'une question intéressant le ressortissant d'une Puissance dépourvue d'un consulat ou d'un tribunal consulaire à Tanger.

2. Celui d'une question intéressant un individu sans nationalité ou de nationalité inconnue ou qui n'est pas reconnu par son consulat.

3. Les affaires de pension alimentaire entre individus de diverses nationalités (quand, par exemple, une femme a perdu la nationalité de son père en se mariant avec un étranger).

4. Les successions intéressant des individus de diverse nationalité, à moins qu'on se reconnaisse à cet égard la compétence même à l'égard des étrangers du consulat dont relevait le *de cujus*.

Et à ces cas on doit probablement ajouter celui d'un conflit entre deux juridictions consulaires lorsqu'un individu a plus d'une nationalité.

Dans tous ces cas (si ce n'est dans le cas de conflit) la Commission s'est déclarée en faveur de la compétence du tribunal international, qui doit appliquer la loi nationale des intéressés.

Le principe d'application de la loi nationale n'est pas cependant exempt de toute difficulté. En effet, la loi nationale peut ne pas être unique; elle peut varier suivant la race de l'intéressé (voir le cas des Algériens ne jouissant de la qualité de citoyen français); suivant la confession (comme en Maroc même) ou suivant son domicile (comme en droit anglais).

Reconnaissant donc que l'intéressé aurait pu avoir acquis un domicile marocain sans avoir par ce fait acquis un nouveau statut déterminé, il faut, dans l'application de la loi nationale, tenir compte de toutes les modalités résultant de la race, de la confession, ou du lieu d'origine de l'intéressé.

Et finalement pour combler toute lacune éventuelle il ne serait pas peut-être sans utilité d'incorporer dans les codes tangérois quelques dispositions sur le statut personnel, basées par préférence sur la loi française, qui serait applicable dans l'absence de toute loi nationale. Citons comme cas où ces dispositions seraient utiles celui d'un oriental converti au christianisme et adhérent d'un rite qui n'a pas ses propres règles de statut personnel.

Si l'on oppose à cette dernière suggestion que les cas où des dispositions semblables trouveraient leur application ne seront pas assez fréquents pour justifier la peine qu'impliquerait leur rédaction, on pouvait répondre que la rareté même des cas permettrait une rédaction pas trop méticuleuse.

Tel est donc le système que j'ai voulu préconiser. Avec ce système on peut prévoir sous peu de temps l'abandon volontaire par les Puissances de leur juridiction en matière de statut personnel, aussitôt que le tribunal international aurait fait ses preuves. En effet, comme a très bien dit M. Berge, la plupart des questions de statut personnel sont relativement simples. Les juridictions consulaires se sont justifiées par la préférence naturelle des étrangers pour leur loi nationale, à laquelle le système préconisé assure tout son effet, et par l'absence de toute autre juridiction respectable, lacune que le tribunal international sera bientôt reconnu d'avoir comblée.

Reste quelques questions de pur détail :—

(a.) L'attention de la Commission a déjà été attirée sur les difficultés pouvant surgir des règles diverses sur l'âge de la majorité. La jurisprudence française à

tranché ces difficultés en appliquant la loi locale en cas de doute. Il serait peut-être utile de consacrer ce principe par une disposition législative; en tout cas, pour qu'il puisse recevoir son application il faut que la loi locale fixe un âge de majorité, c'est-à-dire qu'il existe une loi locale de statut personnel.

(b.) Les lois des pays européens sont plus ou moins d'accord pour accepter pour la validité d'un testament soit les formalités exigées par la loi nationale du testateur soit celles exigées par la loi de son domicile. A ce point de vue il serait utile d'insérer des dispositions réglant lesdites formalités; à ces dispositions on devra peut-être adjoindre une disposition dans le sens que tout testament fait dans les formes exigées par la loi nationale serait valable à l'égard des immeubles situés à Tanger. De cela découle la nécessité pour un système local de notariat, sur laquelle la Commission s'est déjà prononcée.

(c.) Finalement, il faut poser le principe que les exceptions de la compétence du tribunal international à l'égard des étrangers aussi bien que des indigènes ne doivent pas être interprétées de façon à empêcher la protection la plus ample des intérêts des mineurs et d'autres incapables.

A cet effet l'avocat du Gouvernement devra probablement être muni des pouvoirs nécessaires pour intenter en leur nom et pour leur compte toute action utile devant le tribunal.

W. E. B.

[17743]

No. 82.

Sir M. de Bunsen to Sir Edward Grey.—(Received April 18.)

(No. 67.)

Sir,

Madrid, April 15, 1913.

I HAVE the honour to forward a memorandum by Mr. White on the principal questions raised at the 19th, 20th, 21st and 22nd sittings of the Tangier Mixed Commission, namely :—

1. The application of future treaties to the international zone.
2. Legislative powers of the municipality.
3. Appointment of officials.
4. Nationality of officials.
5. Public works.

Mr. White also reports some conversations with his French colleague regarding the rights of the municipality in the matter of the sale of Government lands, and regarding the future post and telegraph system.

On the serious divergence of opinion which exists with regard to some of the above points, I shall venture in a subsequent despatch to offer a few observations.

I have, &c.

MAURICE DE BUNSEN.

Enclosure 1 in No. 82.

Memorandum by Mr. White.

THE Mixed Commission has at its last few meetings been discussing the limitation of the powers of the municipality, taking as a basis the article proposed at the seventh meeting of the original commission held on the 25th June, and finally adopted at the ninth meeting held on the 10th July. This article was set out in the French memorandum of the 10th October, with the observation that it did not appear to give rise to any difficulty, except as regards section 7 (b) *Le régime foncier*; I was, therefore, somewhat surprised and disappointed to learn from M. Dupeyrat that he now objected to the fourth paragraph, providing that such treaties as may be made in future should not be applicable to the international zone without the consent of the municipality.

M. Dupeyrat argued that this article was in contradiction with itself, the fourth paragraph not agreeing with the second; he endeavoured to maintain that the sentence "Elle est tenue de respecter les traités passés entre le Sultan et les Puissances" referred to future treaties, as well as those already in force. He expressed very strong

views on the subject, stating that the Chambers would never ratify the convention if this paragraph were allowed to stand, as it would be considered to imply that the international zone was no longer a part of Morocco, and thus to infringe the sovereign rights of the Sultan. He declared it was altogether inadmissible that, if France and Spain were in agreement for the application in their respective zones of a treaty made by the Sultan, the municipality should be in a position to prevent its application at Tangier. The Committee of Control, he argued, had only a right of veto, the municipal assembly could, therefore, by throwing out a treaty, prevent its application in the international zone, and such an assembly might be moved to do so from caprice or for some unworthy motive such as the personal interests of the elected members.

In order to meet this objection I offered, as a compromise, to modify the article so as to provide that all future treaties should be applicable at Tangier if approved by the Committee of Control; thus, treaties between the Sultan and all the treaty Powers would of necessity be approved, whilst others would receive fair and impartial consideration. M. Dupeyrat would, however, hear of no compromise, and insisted that all treaties applicable in the French and Spanish zones should, *ipso facto*, be applicable also in the international zone, without being submitted either to the municipal assembly or to the Committee of Control. He would not admit that either body should be permitted to discuss any treaty. To this I declined to agree, and it was decided that the matter should be referred to our respective Governments. M. Dupeyrat had previously discussed this point with M. Hontoria and had persuaded him to accept his view, M. Padilla, therefore, supported M. Dupeyrat at the last meeting.

I cannot look upon M. Dupeyrat's contention without considerable misgivings, as it is impossible to foresee what it may enable the French and Spanish Governments to impose upon the international zone. M. Dupeyrat's great aim in the present negotiations is to emphasize as much as possible the sovereign rights of the Sultan at Tangier, and to minimise the powers of the foreign representatives. He seeks to bring about the dependence of Tangier on the other zones, especially the French, as being the seat of the Sultan. This is apparent at every turn; he even seeks to deprive the municipality of legislative powers, as I shall explain later. It is merely on account of the principle involved that he objects to the clause under discussion, for he cannot seriously believe, as he alleges, that it will hamper the treaty-making powers of the Sultan as regards the French and Spanish zones. He must know that any unobjectionable treaty would, as a matter of course, be accepted by the Committee of Control, so that he need have nothing to fear from that body. It was also agreed that the question of customs tariffs was distinct, and that the same tariffs must be applied in all three zones. He wishes to reserve to the Sultan, i.e., to the French Government, entire liberty to make treaties to be applicable in the international zone.

As above stated, M. Dupeyrat desires to deprive the municipality of the power to frame laws or to modify the laws regarding land and the civil and criminal codes, which it is now proposed to draw up; he wishes these laws to be like those of the Medes and Persians. I told him I could not accept the limitation of the powers of the municipality. I hoped that a satisfactory set of codes would now be framed, but one could hardly expect that they would be so perfect that experience would not show that some modification was desirable. I was prepared to agree that some guarantees should be provided that the codes would not be modified without good cause. It might, for instance, be stipulated that the opinion of the "avocat du Gouvernement," and of the bench should be sought before modifications were introduced, but it appeared to me impossible to deprive the municipality, i.e., the assembly and the Committee of Control—of all legislative powers in this respect.

The question of the appointment of officials also gave rise to some discussion. M. Dupeyrat, wishing to vest the right of appointment in the "commissaire-administrateur." He, however, finally accepted a proposal I put forward as a compromise, that the "commissaire-administrateur" should make the appointments on the recommendation of the head of the department concerned, after obtaining the approval of the Committee of Control, the municipal assembly being previously informed, so that it might state any objection it might desire to offer to the appointment.

M. Dupeyrat suggested that, with a view to minimise rivalry as to nationality when selecting persons to fill vacant posts, an agreement should be come to that, in making certain appointments, the relative importance of the various colonies should be taken into account. This appeared to me reasonable in the case of employés at hospitals, schools, &c., but not so in the case of the appointment of judges, as to which other

factors must be taken into consideration. I touched upon the latter question in my immediately-preceding memorandum, and mentioned that it had been referred to the jurists. I am now informed by M. Brunyate that he and his colleagues were unable to arrive at an agreement on the subject, as they each held different views. I fear this question will give rise to considerable difficulty.

At the seventh meeting of the first Mixed Commission, held on the 25th June last, it was decided that "Les questions des travaux publics continueront d'être régies par les stipulations de l'Acte d'Algéciras et par les dispositions des règlements généraux sur l'adjudication établie en conformité de l'article 110 de cet Acte. Dans la zone municipale la Commission des Adjudications et Marchés et le Comité spécial des Travaux publics seront remplacés par un comité que désignera le Conseil municipal." M. Dupeyrat has pointed out to me that, if we suppress the Commission and the "Comité spécial" in the international zone, his Government will claim the right to suppress them in their zone and the Spanish Government will naturally claim the same right in its zone. In the circumstances it would perhaps be better, in order to avoid this question, to modify this article and to maintain at any rate the "Comité spécial," the more so as its maintenance is taken for granted in the Franco-German Treaty. It might be arranged that the "Comité spécial" should be constituted as stipulated in article 1 of the "Règlement relatif aux adjudications effectuées sur les fonds de la caisse spéciale," but that the three Shereefian delegates should be selected one by the administration of each zone. The committee thus constituted would continue to deal with the adjudications of all public works executed at the cost of the "caisse spéciale" throughout Morocco. Each zone would, however, keep the whole of the special tax levied at its ports, and would be free to decide on what works to spend it. As to other public works, article 4 of the "Règlement sur les adjudications en général" provides that the adjudication commission should consist of two Shereefian delegates, two diplomatic delegates, and a delegate of the administration interested in the work in question. This commission could also be maintained with the provision that, in the case of works in the international zone, the two Shereefian delegates should be named by the municipality, under the general powers delegated to it by the Sultan. Similarly, in the French and Spanish zones they would be named by the administrations of those zones respectively. It appears to me that this would be a more satisfactory arrangement both as regards Tangier and the other two zones.

Another point which has been raised in private conversation between M. Dupeyrat and myself is that of Government lands in the Tangier zone. M. Dupeyrat appears to be willing to transfer to the municipality the rights of the Makhzen so far as their administration is concerned, but he refuses to admit that the municipality can under any circumstances sell any Government lands. It is, of course, desirable that the municipality should not sell any such lands without very good reason, but I should like, if possible, to reserve to them the right to do so under proper control. It might in certain circumstances be necessary to effect an exchange of lands or even to sell. As an instance I may cite the lands to be reclaimed from the sea in making the new harbour. I am informed that the plans provide for reclaiming a very considerable area, several acres of which will be available after deducting the land required for port works, stores, &c. This land will be of great value, as the land near the port now sells for 3*l.* or 4*l.* the metre, or even more. I was reckoning on the sum to be realised by the sale of this land for obtaining a considerable proportion of the amount required for buying out the contractors, should it be found necessary to grant a concession for the port. If, however, M. Dupeyrat's contention is accepted, the municipality will be unable to sell any of this land, unless it is held that land brought into existence by the municipality will form part of its private domaine.

M. Dupeyrat enquired of me the other day what my instructions were in regard to posts and telegraphs, informing me that the French post offices were to be suppressed. I replied that I had no instructions on the subject, but that I had no reason to believe that His Majesty's Government had any intention to suppress the British post offices in Morocco. It appears to me that the simplest solution is to maintain the *status quo* in this respect; in any case, the Eastern Telegraph Company has acquired rights which must be respected. The present system of foreign post offices works satisfactorily, and it is, at any rate, premature to think of changing it. The French Government intend to endeavour to starve out the foreign post offices by perfecting the Makhzen courier service, and it will probably be difficult for the other services to compete successfully in this respect, as the couriers are very costly, but as soon as railways are established the cost of maintaining the foreign post offices will be

comparatively small, and they would probably be self-supporting. In the meantime, at any rate, it appears to me desirable that we should maintain our post offices.

I transmit herewith the *procès-verbaux* of the 19th, 20th, 21st and 22nd meetings of the Mixed Commission.

H. E. W.

Madrid, April 13, 1913.

Enclosure 2 in No. 82.

Procès-verbal of Nineteenth Meeting of Tangier Mixed Commission, held April 7, 1913.

LA Commission mixte d'organisation du régime de Tanger s'est réunie le lundi, 7 avril, 1913, à 10 heures et demie, au Palais du Ministère d'État.

Le procès-verbal de la dernière séance est adopté.

Fonctionnement et Attributions de l'Assemblée municipale.

La Commission décide :

La durée du mandat des membres de l'Assemblée municipale est de trois ans. Les membres sortants sont rééligibles.

Les fonctions de membres de l'Assemblée municipale sont gratuites.

Les conditions et les formes de dissolution éventuelle de l'Assemblée municipale seront ultérieurement fixées.

La Commission procède à une discussion générale des attributions de l'Assemblée municipale et constate qu'elle est unanime à admettre que l'assemblée doit être, à Tanger, le principal organe de direction et d'autorité. Mr. White et M. Padilla voudraient poser en principe qu'à ce titre l'assemblée aura par délégation du Sultan et sauf des exceptions expressément indiquées les pouvoirs législatifs et administratifs les plus étendus. M. Dupeyrat ne voit pas d'inconvénient à ce que cette formule, déjà adoptée par les délégués des trois Gouvernements à Saint-Sébastien, soit confirmée; elle n'est pas dangereuse, en effet, grâce à la réserve qu'elle contient et qui est de nature à permettre toutes les limitations nécessaires. Mais peut-être vaudrait-il mieux éviter l'emploi d'expressions qui dépassent manifestement la réalité. L'Assemblée municipale ne saurait avoir de pouvoirs législatifs proprement dits et pour ainsi dire illimités en matière de droit civil, par exemple, ni de droit pénal. Elle ne saurait non plus avoir ou, si l'on préfère, exercer tous les pouvoirs administratifs; on ne songe pas sans doute à lui confier le soin de nommer les fonctionnaires.

Mr. White et M. Padilla déclarent que, dans leur pensée, l'Assemblée municipale seule sera qualifiée au contraire sinon pour recruter et nommer elle-même le personnel administratif, du moins pour sanctionner les nominations des agents commissionnés.

M. Dupeyrat explique qu'il ne peut pas se rallier à cette thèse. L'Assemblée municipale sera une assemblée délibérante, votant le budget et tous les textes réglementaires, dont la confiance sera indispensable à l'autorité administrative, mais qui ne peut être chargée d'administrer directement elle-même.

M. Dupeyrat considère donc que sauf le cas des chefs des grands services au sujet desquels des règles spéciales seront posées, c'est le chef de l'administration municipale qui devra choisir et nommer ses collaborateurs.

M. Padilla et Mr. White n'admettent pas qu'on puisse donner un tel pouvoir à un personnage unique.

M. Dupeyrat répond que rien ne serait plus facile que d'écarter tout danger d'arbitraire. Il est prêt à accepter que les nominations faites par le chef de l'administration municipale soient soumises à l'agrément du Comité de Contrôle.

Mr. White préférerait que les nominations faites, si l'on veut, par le chef de l'administration municipale sur la proposition des chefs de service intéressés, fussent soumises à l'approbation de l'Assemblée municipale, parce qu'il y aura moins de danger de voir se poser devant cette assemblée qu'au sein du Comité de Contrôle des questions de rivalité de nationalités. M. Padilla accepterait aussi la proposition faite par les chefs de services avec approbation par l'Assemblée municipale ou, à la rigueur, par son président.

M. Dupeyrat répond qu'à son avis il est impossible que les questions de

nationalité ne se posent pas; il vaut donc mieux les envisager franchement, c'est le seul moyen de découvrir le point où les intérêts en présence peuvent se concilier.

La suite de la discussion est renvoyée à la prochaine réunion.

La séance est levée à 1 heure 25 minutes.

Enclosure 3 in No. 82.

Procès-verbal of Twentieth Meeting of Tangier Mixed Commission, held April 8, 1913.

LA Commission mixte d'organisation du régime de Tanger s'est réunie le 8 avril, 1913, au Palais du Ministère d'État, à 10 heures et demie.

Le procès-verbal de la précédente séance est adopté.

La Commission reprend la discussion des questions de personnel.

M. Dupeyrat, reprenant sa thèse de la veille, explique que les préoccupations de nationalité sont si peu évitables qu'elles sont au contraire l'élément prédominant de quelques-uns des problèmes à résoudre. C'est ainsi, par exemple, que si le service des travaux publics ne doit pas être exclusivement municipal et est destiné à conserver ces attributions actuelles dans les ports français et espagnols, la France ne saurait admettre qu'il soit assuré par un autre personnel qu'un personnel franco-espagnol; de même, il serait inadmissible que les Gouvernements de Paris et de Madrid n'obtinssent pas dans le service de la justice des garanties spéciales pour leurs ressortissants par la présence d'un nombre à fixer de magistrats français et espagnols. En matière d'enseignement on reconnaîtra sans doute aussi qu'il sera à la fois équitable et expédient de chercher à établir l'équilibre entre le nombre d'élèves et de membres du personnel enseignant d'une même nationalité; enfin et pour limiter les exemples, il conviendrait que dans les hôpitaux municipaux le personnel hospitalier fût le plus possible de même origine que les malades à soigner.

Si l'on acceptait d'entrer dans cet ordre d'idées, la crainte manifestée par Mr. White perdrait sa principale cause.

Mr. White et M. Padilla déclarent qu'à première vue il leur semble possible de résoudre dans cet esprit, à mesure qu'elles se posent, les diverses questions à examiner. Mr. White ajoute toutefois qu'avant de se prononcer sur l'idée de principe même formulée par M. Dupeyrat, il désirerait prendre le temps d'en mesurer les conséquences et les répercussions.

Quant à la question spéciale des nominations, le délégué britannique accepte qu'elles soient faites, sur la proposition des chefs de service, par le chef de l'Administration municipale après avis favorable du Comité de Contrôle. Mr. White demande que copie de la lettre sollicitant l'avis favorable du Comité de Contrôle doive être en même temps envoyée au président de l'Assemblée municipale afin que celle-ci puisse, s'il y a lieu, présenter ses objections au Comité de Contrôle.

M. Padilla accepte la proposition de Mr. White, pourvu que le chef de l'Administration municipale soit le chef de l'assemblée. M. Dupeyrat adhère aussi, à titre de transaction, à la proposition de Mr. White, mais n'accepte pas la réserve de M. Padilla.

La séance est levée à 1 heure et demie.

Enclosure 4 in No. 82.

Procès-verbal of Twenty-first Meeting of Tangier Mixed Commission, held April 11, 1913.

LA Commission mixte d'internationalisation de Tanger s'est réunie le 11 avril, 1913, au Palais du Ministère d'État, à 10 heures et demie du matin.

Le procès-verbal de la dernière séance est adopté.

M. Padilla signale que les trois juristes adjoints à la Commission pensent avoir terminé leur travail lundi prochain. Il propose qu'ils se réunissent avec la Commission en séance plénière pour faire l'exposé général du système qu'ils recommandent, et traiter de la nationalité des magistrats, les deux questions étant étroitement connexes.

Mr. White préférerait que cette revision n'ait lieu qu'après qu'il aura reçu communication du projet et eu le temps de l'étudier. Il estime que la répartition des sièges par nationalités est essentiellement politique, et, par suite de la compétence, exclusive de la Commission. C'est, du reste, l'opinion soutenue par Mr. Brunyate.

M. Dupeyrat partage la manière de voir de Mr. White. Si, toutefois, M. Padilla insiste, il ne s'oppose pas à ce que les trois jurisconsultes soient invités à faire connaître à la Commission comment d'après eux pourrait se faire la répartition des sièges, étant, d'ailleurs, entendu que la Commission conservera son entière liberté de décision.

Il en est ainsi décidé.

La Commission reprend l'examen des attributions de l'Assemblée municipale. Elle confirme les décisions suivantes déjà adoptées par la première Commission mixte de Madrid :—

"1. L'Assemblée municipale a, par délégation du Sultan et sauf les exceptions expressément prévues, les pouvoirs législatifs et administratifs les plus étendus dans la zone internationale.

"2. La municipalité n'a pas le pouvoir de négocier et de conclure des traités avec les Puissances étrangères, elle est tenue de respecter les traités passés entre le Sultan et les Puissances. En cas de désaccord entre les stipulations des traités et les réglementations municipales, les stipulations des traités prévaudront."

Mr. White précise que cette formule s'applique exclusivement aux traités conclus antérieurement à l'existence de la municipalité, comme il ressort clairement de son rapprochement avec le paragraphe suivant du même article adopté le 25 juin, 1912 :—

"Les traités qui seraient conclus dans l'avenir par le Gouvernement marocain ne s'appliqueraient au territoire municipal qu'avec l'agrément de la municipalité."

M. Dupeyrat accepte de confirmer la première formule relative aux traités avec le sens que lui donnera Mr. White, s'il demeure entendu que cela ne signifie pas qu'il perd sa liberté de décision pour les traités à venir. Il demande, avant qu'il soit statué sur la seconde formule, d'avoir pu en mesurer les conséquences exactes et les répercussions.

La demande de M. Dupeyrat est accueillie.

La Commission confirme ou adopte les formules suivantes :—

"Les clauses des traités qui établissent l'égalité de toutes les Puissances en matière économique continueront, même après abrogation éventuelle des traités, à s'imposer à l'Administration municipale.

"La municipalité n'aura le droit ni d'élever ni de laisser élever des fortifications ni travaux militaires d'espèce quelconque, ni de constituer des forces militaires ou navales, à l'exception de la police nécessaire pour son territoire. Les fortifications existantes seront désarmées.

"Sa Majesté chérifienne s'engagera à retirer toute force militaire qui se trouverait dans la zone internationale et à n'y en entretenir aucune dans l'avenir."

La discussion de l'article relatif au libre exercice de tous les cultes est réservé.

La séance est levée à 1 heure un quart.

Enclosure 5 in No. 82.

Procès-verbal of Twenty-second Meeting of Tangier Mixed Commission, held April 12, 1913.

LE procès-verbal de la dernière séance est adopté.

Au sujet de l'application des traités que le Gouvernement chérifien pourrait conclure dans l'avenir, M. Padilla propose la formule suivante :—

"Les traités qui seraient conclus à l'avenir par le Gouvernement marocain ne s'appliqueront au territoire municipal que dans ces deux cas :

"1. Si la municipalité leur donne son agrément.

"2. Si les deux Puissances protectrices des deux autres zones se sont mises d'accord pour étendre à l'ensemble du Maroc la portée de la convention dont il est question."

Mr. White n'accepte pas cette formule et s'en tient au texte adopté l'année passée à Madrid avec l'approbation ultérieure des Gouvernements.

Il en référera à Londres.

M. Dupeyrat ne croit pas qu'on puisse dire que la formule visée par Mr. White ait reçue l'approbation formelle de son Gouvernement. Il observe au surplus qu'il faut aussi se préoccuper de n'inscrire dans le projet de convention que des dispositions ayant toutes chances d'être ratifiées par les Parlements intéressés. Il en référera de son côté à Paris.

La séance est interrompue pour recevoir les délégués musulmans venus prendre congé de la Commission. A leur demande d'une réponse aux vœux dont ils ont été les interprètes, la Commission répond, en confirmant sa précédente déclaration, que les trois Gouvernements ont été toujours d'accord pour baser leur œuvre sur le respect de la loi coranique et des traditions religieuses de la population indigène.

Pour les questions d'application, la Commission s'inspirera des sentiments les plus bienveillants, mais elle ne peut faire aucune déclaration précise, le projet qu'elle élabore ne devant recevoir un caractère définitif que s'il est sanctionné par les Gouvernements.

La séance est reprise.

Mr. White propose la nouvelle formule suivante : La municipalité n'a pas pouvoir de réglementer le tarif douanier.

Le délégué britannique explique que, en effet, le tarif douanier étant fixé par des traités internationaux, c'est seulement nouveau traité avec les Puissances signataires qu'il peut être modifié. La formule précédemment adoptée prêtait à équivoque et pouvait laisser croire qu'après entente préalable avec les deux autres zones, la municipalité aurait eu le droit de modifier le tarif.

M. Dupeyrat et M. Padilla déclarent que la formule proposée par Mr. White les satisfait entièrement, si elle signifie que les questions douanières ne sont pas en aucune mesure de la compétence de la municipalité.

Mr. White réplique que ce commentaire force le sens de ce qu'il a voulu dire et pose une nouvelle question. Il désire la soumettre à son Gouvernement.

La Commission adopte la dernière partie de la proposition de Mr. White, ainsi conçue :—

"La municipalité ne peut, sans entente préalable avec les autorités des deux zones, réglementer :

"(a.) Les questions concernant le cabotage et toutes autres matières connexes aux questions douanières et intéressant la généralité des ports marocains ;

"(b.) La monnaie ;

"(c.) Les postes et télégraphes."

En ce qui concerne le régime foncier, M. Dupeyrat déclare qu'il consent volontiers à ne pas exiger que la zone internationale ait à s'entendre avec les deux autres zones ; mais il n'accepterait pas non plus que cette matière fût laissée à la compétence exclusive de l'Assemblée municipale. Il se réserve de présenter ses observations lorsque la Commission statuera sur le projet de réglementation foncière préparé par les jurisconsultes.

La Commission mixte confirme la rédaction suivante :—

"La municipalité ne peut, de sa propre initiative, ouvrir des délibérations sur des questions impliquant une entente du Gouvernement marocain avec les Puissances."

La Commission décide de prier les trois jurisconsultes de lui fournir leur avis sur les conditions dans lesquelles la justice pourra fonctionner s'il y avait un intervalle entre l'installation des services administratifs et judiciaires de la municipalité.

La séance est levée à 1 heure.

[17057]

No. 83.

*Sir Edward Grey to Mr. White.**Foreign Office, April 18, 1913.*

Sir, I HAVE received from Sir M. de Bunsen the *procès-verbaux* of the 15th, 17th, and 18th meetings of the Tangier Commission, together with your memorandum dated the 8th instant, and I approve the various resolutions adopted at those meetings.

I am, &c.

E. GREY.

[18252]

No. 84.

Sir M. de Bunsen to Sir Edward Grey.—(Received April 21.)

(No. 73.)

Madrid, April 17, 1913.

Sir, FROM the enclosed further memorandum by Mr. White it will be seen that after all there is no serious difference of opinion between himself and his French colleague on the Tangier Mixed Commission with regard to the application of future treaties in the Tangier zone. The matter has now been happily settled by the acceptance by the three delegates of a formula to the effect that as a general rule treaties which may be henceforth concluded between the Sultan and other Powers shall not be applicable in the Tangier zone without having been previously accepted by the municipality. Treaties relating to customs tariffs and other cognate subjects requiring universal application throughout the whole of Morocco will form an exception to the rule, such treaties becoming *ipso facto* applicable in the Tangier zone at the same time as in the other two zones.

Another important point on which Mr. White has so far failed to secure the concurrence of M. Dupeyrat is that of the extent to be assigned to the legislative powers of the municipality. Mr. White, however, is not without hopes of being in the end able to carry his contention that fair latitude should be allowed to the municipality in this respect, and especially as regards power to legislate concerning land questions, and to modify, if necessary, the codes of justice. He hopes to learn that his views on this question, and also on the other points mentioned in his memorandum of the 13th instant, have met with your approval.

I have, &c.

MAURICE DE BUNSEN.

Enclosure in No. 84.

Memorandum by Mr. White.

FROM a conversation between His Majesty's Ambassador and M. Dupeyrat, it appeared that a misunderstanding had arisen in regard to the question of the application in the international zone of treaties that may in future be made by the Moorish Government with the assent of the French and Spanish Governments. M. Dupeyrat had apparently not fully understood that I had excepted treaties regarding customs tariffs, and I had not understood that he was prepared to accept that treaties, other than those regarding a special class of subjects, should not be applied in the international zone unless they had been approved by the municipality. I accordingly reverted to the subject at this morning's meeting, when we agreed that the fourth paragraph of the formula, adopted by the first Mixed Commission and referred to by me at the 21st meeting held on the 11th instant, was too wide, in that it would include commercial conventions relating to tariffs; whilst, on the other hand, the formula proposed by M. Padilla at the 22nd meeting and supported by M. Dupeyrat was also too wide, in that it made all treaties, on whatever subject accepted by France and Spain, applicable in the Tangier zone without being submitted to the municipality for approval.

At the latter meeting I had proposed an article to the following effect: "La municipalité n'a pas le pouvoir de réglementer le tarif douanier." M. Dupeyrat and M. Padilla accepted this article with the proviso that it implied that "les questions

douanières ne sont en aucune mesure de la compétence de la municipalité." I stated in reply that, as in the original article, which had been approved by His Majesty's Government, it had been contemplated that the three zones should come to an agreement regarding the modification of the customs tariff, I did not feel justified in accepting this proviso without instructions, though personally I was disposed to agree to it. I also repeatedly stated, during the course of the subsequent discussions, that I considered treaties dealing with customs tariffs as entirely apart and outside the discussion. I was under the impression that this was clearly understood, and was surprised to learn from M. Dupeyrat that he had not understood it. Starting from this standpoint we came to an agreement to the following effect: "Les trois délégués sont d'accord pour recommander à l'adoption de leurs Gouvernements respectifs une formule qui contienne les exceptions nécessaires à la règle, qui semblait posée en termes généraux par l'article relatif aux futurs traités internationaux" (voir le procès-verbal de la 21^e séance). The exceptions we contemplated are treaties modifying customs tariffs and cognate subjects, such as transit regulations, &c. Foreign Postal Conventions, Sanitary Conventions, Monetary Conventions, and other conventions dealing with similar subjects of necessity applicable throughout the country.

M. Dupeyrat desires to insert in the convention an article similar to article 9 of Franco-Spanish Agreement, providing for the right of passage through the international zone of convoys, functionaries with their escorts, &c. He considered that the article of the Franco-Spanish Treaty secures to them that right, as soon as it has been adhered to by all the Powers. As a matter of fact there would seldom be any necessity for putting the article in force, but it would be very regrettable if French or Spanish troops were to pass through the international zone with any frequency, and it would be desirable, if possible, to insert some stipulation that the right should not be exercised unless absolutely necessary. This undertaking might perhaps be given in the form of letters exchanged at the time of signing the treaty.

H. E. W.

Madrid, April 16, 1913.

[18425]

No. 85.

Sir M. de Bunsen to Sir Edward Grey.—(Received April 22.)

(No. 75.)

Madrid, April 19, 1913.

Sir,

I HAVE the honour to forward herewith a further memorandum by Mr. White, covering the *procès-verbaux* of the 23rd, 24th, and 25th meetings of the Mixed Tangier Commission. At these meetings the provisions of the Franco-Spanish Convention of the 27th November, 1912, were considered in their bearing on the new arrangements for Tangier.

I have, &c.

MAURICE DE BUNSEN.

Enclosure 1 in No. 85.

Memorandum by Mr. White.

I TRANSMIT herewith the *procès-verbaux* of the 23rd, 24th, and 25th meetings, at which the Mixed Commission went through the Franco-Spanish Treaty of the 27th November last with a view to deciding which of its provisions should be incorporated in the convention establishing the international zone of Tangier. A number of articles were adopted, with such modifications as were necessary, whilst others, which will be required, were left for further consideration, as it was found, after some discussion, that no agreement could at the time be come to regarding them. The articles thus reserved were the following (some of the points were touched upon in my last memorandum):—

Article 8.—The Spanish delegate wished to maintain the exclusive monopoly of the Spanish Franciscans, while M. Dupeyrat, though willing to admit that the Spanish bishop should be the head of the Roman Church at Tangier, very naturally desired that it should be possible for French Franciscans to minister to the religious needs of the French colony. I took no active part in the discussion, though I stated

that, in my opinion, there should be full religious liberty, and that Roman Catholic priests of all nationalities should be free to officiate at Tangier.

Article 9.—I expressed the wish that some sort of definite understanding should be come to that no French, Spanish, or Moorish troops should pass through the international zone unless absolutely necessary.

Article 18. Both M. Dupeyrat and myself having consulted our Governments as to the composition of the adjudications commissions, we wished to be in possession of our instructions before discussing the subject. M. Dupeyrat appears personally willing to accept an arrangement on the lines proposed in my memorandum of the 13th instant.

Article 19.—(1.) *Customs Tariff.*—I await instructions as to whether it is necessary that the municipality should be consulted by the Makhzen when negotiating any convention for the modification of the tariff. As stated in my memorandum of the 16th instant, I see no objection to the customs tariff being left to the authorities of the French and Spanish zones, without the municipality being consulted. British interests cannot be injured thereby, as the tariff in our commercial convention of 1856 cannot be modified without our consent.

(2.) *Postal Rates, Local and Interzonal.*—It is desirable that arrangements should be made for the establishment of uniform interzonal postal rates, but it appears to me that each zone should be free to fix its own rate for correspondence within the limits of the zone. So long, however, as the various foreign post offices are maintained, it is improbable that any international postal service will be established, and the foreign offices will presumably maintain their present rates for both local and foreign postage.

Article 22.—*Consular Protection of Tangier Natives in other Countries.*

Article 25.—*Prevention of Smuggling of Arms, &c.*

These two articles were also reserved, though no mention was made of them in the *procès-verbal*. M. Dupeyrat offered to allow Spanish ships to undertake the duty of patrolling the coast of the international zone for the prevention of smuggling in return for the consent of the Spanish Government to France undertaking the protection of Tangier Moors abroad. This seemed a natural arrangement, but M. Padilla, having consulted M. Navarro Reverter, hesitated to accept it, stating that his Government would prefer to have the protection of the natives and leave to France the patrolling of the Tangier coast. M. Dupeyrat appeared annoyed at this reply and observed that he had made the proposal out of regard to Spain, but that, under the terms of the sixth paragraph of article 1 of the Franco-Spanish Agreement, confirming article 5 of the Franco-Moorish Treaty, France was entitled, as of right, to the protection outside of Morocco, of all Moorish subjects other than those of the Spanish zone, and he added, if the Spanish Government did not accept his conciliatory offer, he would stand upon the rights of his Government and would insist on the protection of Tangier natives by France, and claim that the patrolling of the Tangier coast should be undertaken by French and Spanish ships jointly. The matter was left there for the time so that M. Padilla could obtain further instructions.

Amongst the articles adopted in a modified form were those dealing with the acquired rights of the Contrôle de la Dette, the State Bank, and the holders of the tobacco monopoly contract. It was considered better to deal with the matter in this form than to adopt the somewhat vague formula proposed by M. Guiot last year, and put forward again, under the heading "9. Limites de Pouvoirs locaux," in the memorandum transmitted in M. Cambon's note of the 18th October. M. Padilla, however, maintained the demand of his Government for the suppression of the control of the customs, Government lands, and other services by the Contrôle de la Dette. He informed me that his Government intend to be very firm on this point, and hope that France will give way in the end, as they did in the Franco-Spanish negotiations. I told him I feared his hopes were doomed to disappointment, and that it was a mere waste of time to continue arguing the point.

In financial matters M. Dupeyrat is apparently prepared to adopt a generous attitude. I have reason to believe that no claim will be made on the municipality for any of the Makhzen liabilities other than the 1904 and 1910 loans, and that even in the matter of the payment to be made to the other zones on account of duties on goods passing out of the international zone the proportion due will be calculated in a spirit of liberality towards Tangier. I have therefore agreed that the rate fixed should hold good until the Tangier-Fez Railway is working.

M. Dupeyrat was not at first so generously inclined, but I have frequently pointed out to him that it is equally in the interests of the French zone that Tangier should be furnished with the means of existence, and the representations of the Tangier delegates have also had considerable effect on him, as he is unwilling that France should incur the odium of being responsible for the starving of Tangier financially. He is therefore now prepared to be generous in this respect if satisfactory arrangements are come to on other points. He evidently intends, however, to do some hard bargaining, purchasing concessions of political interest in exchange for his financial concessions. I took an opportunity to tell him clearly that the generosity of his Government in this respect was as much towards themselves as towards us, as we were all equally interested in the prosperity of Tangier, and that there was no reason why their generosity was to be paid for by us. A point to which M. Dupeyrat attaches much importance is the maintenance of M. Porché and the Public Works staff, and to this I think we will have to agree, at any rate for a time.

H. E. W.

Madrid, April 18, 1913.

Enclosure 2 in No. 85.

Procès-verbal of Twenty-third Meeting of Tangier Mixed Commission, held April 14, 1913.

LA Commission mixte d'internationalisation de Tanger s'est réunie au Palais du Ministère d'État, le lundi, 14 avril, 1913, à 10 heures et demie.

Le procès-verbal de la précédente séance est adopté.

La Commission passe en revue les articles du Traité franco-espagnol du 27 novembre, 1912, afin de relever ceux d'entre eux qui doivent s'appliquer à la zone internationale avec ou sans modification.

Article inspiré de l'article 1^{er} dudit traité, à inscrire dans la future convention :—

"Les trois Gouvernements conviennent que dans la région définie à l'article 2 ci-après, il appartiendra à une municipalité internationale, par délégation de Sa Majesté chérifienne, de veiller à la tranquillité publique et d'introduire toutes les réformes administratives, économiques, financières et judiciaires prévues par la présente convention et le firman y annexé.

"La zone internationale de Tanger sera administrée, au nom de Sa Majesté le Sultan, suivant les conditions de la présente convention par la municipalité définie à l'article premier du firman.

"La délégation de pouvoir faite à la municipalité aura un caractère permanent.

"La municipalité veillera à l'observation des traités en vigueur.

"Aucune responsabilité ne pourra être imputée au Gouvernement chérifien du chef de réclamations motivées par des faits qui se seraient produits sous l'administration de la municipalité.

"Article 2. La zone internationale de Tanger sera celle comprise dans les limites décrites ci-après :—

"Partant de Punta Altares sur le côté sud du détroit de Gibraltar, la frontière se dirigera en ligne droite sur la crête du Djebel Beni Meyimel, laissant à l'ouest le village appelé Dxar-es-Zeitun, et suivra ensuite la ligne des limites entre le Fahs d'un côté et les tribus de l'Anjera et de l'Oued Ras de l'autre côté jusqu'à la rencontre de l'Oued-es-Zeghir. De là, la frontière suivra le thalweg de l'Oued-es-Zeghir puis ceux des Oueds M'harhar et Tzahadartz jusqu'à la mer.

"Le tout conformément au tracé indiqué sur la carte de l'état-major espagnol, qui a pour titre 'Croquis del Imperio de Marruecos,' à l'échelle de 1:100,000, édition de 1906.

Art. 3. "Afin d'assurer le libre passage du détroit de Gibraltar, les trois Gouvernements conviennent de ne pas laisser élever de fortifications ou d'ouvrages stratégiques quelconques sur le territoire de la zone internationale."

Art. 4. Article inspiré de l'article 8 du Traité franco-espagnol. Réservé.

Art. 5. Article inspiré de l'article 9 du Traité franco-espagnol. Réservé.

Art. 6. "Les impôts et ressources de toutes sortes dans la zone internationale seront affectés aux dépenses de ladite zone comme il sera dit ci-après.

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Art. 7. "Le Gouvernement chérifien ne pourra être appelé à participer à aucun titre aux dépenses de la zone internationale."

La séance est levée à 1 heure et demie.

Enclosure 3 in No. 85.

Procès-verbal of Twenty-fourth Meeting of Tangier Mixed Commission, held April 15, 1913.

LA Commission mixte d'internationalisation de Tanger s'est réunie au Palais du Ministère d'État, le mardi, 15 avril, 1913, à 10 heures et demie.

Le procès-verbal de la précédente séance est adopté.

M. Padilla fait la déclaration suivante:—

"Les recettes encaissées par le Bureau de la Douane de Tanger devant, d'après l'article 13 de la Convention hispano-française, être réparties entre la zone internationale et les deux autres zones, au prorata de la destination finale des marchandises, il va de soi que les charges du Trésor municipal envers des tiers, résultant des faits accomplis, ne portent que sur la partie des revenus perçus à Tanger, restent effectivement entre les mains de la municipalité.

"Ces charges sont:

- "1. L'annuité des emprunts 1904 et 1910;
- "2. Celles correspondant à l'indemnité de guerre française.

"Quant à la première, rien ne s'oppose à l'application d'un système analogue à celui inscrit à l'article 12 de la Convention hispano-française. La municipalité contribuerait aux charges des emprunts suivant la proportion fournie à l'ensemble des recettes douanières des ports ouverts au commerce par la partie de recettes qui lui revient définitivement. La municipalité aura le droit de constituer chaque année, entre les mains du représentant des porteurs, le montant de l'annuité fixée comme il est dit. En conséquence, l'encaissement au titre des Emprunts sera suspendu dans la zone municipale.

"Quant à la créance française, l'importance économique de la charge sur la partie des recettes incombant à Tanger est minime et ne saurait justifier le maintien du contrôle. Une renonciation pure et simple entrerait probablement dans les idées du Gouvernement de la république, et le Gouvernement de Sa Majesté chérifienne est disposé, de son côté, à renoncer au gage qui dans la zone municipale, comme dans le reste de l'Empire, lui a été assuré par le Traité hispano-marocain du 16 novembre, 1910, en ce qui concerne les revenus des mines."

M. Dupeyrat répond que ses instructions ne lui permettent pas de se prêter à la mise en discussion des droits, prérogatives et attributions du Contrôle de la Dette.

M. Padilla réplique que les emprunts 1904 et 1910 seraient garantis du moment que la municipalité pourrait constituer chaque année, à des dates préalablement arrêtées entre les mains du représentant des porteurs de titres de ces emprunts le montant des annuités tel qu'il est prévu à l'article 12 de la Convention hispano-française.

M. Dupeyrat ne partage pas cette manière de voir et fait observer que les trois Gouvernements n'ont pas le droit de modifier des contrats auxquels ils n'ont pas été parties.

Il présente le texte de l'article ci-après:—

"La municipalité de Tanger ne portera pas atteinte aux droits, prérogatives et privilèges des porteurs de titres des emprunts 1904 et 1910 dans la zone internationale.

"En conséquence, le Contrôle de la Dette y sera maintenu et confirmé dans tous ses droits et attributions sans exception aucune.

"La zone internationale supportera les charges desdits emprunts dans la proportion suivant laquelle elle contribuera au total des recettes douanières des ports ouverts au commerce, déduction faite de la part revenant, comme il est dit ci-après, à la zone française et à la zone espagnole.

"L'annuité de la zone internationale, provisoirement fixée au chiffre forfaitaire de sera revisable chaque année, après la mise en exploitation du chemin de fer Tanger-Fez, au moyen des statistiques de ce chemin de fer et de celles de la douane, à la demande

de l'une ou de l'autre des parties intéressées. La répartition sera faite par les représentants de trois zones intéressées avec le concours du Contrôle de la Dette, ce service n'intervenant qu'à titre consultatif.

"Le Contrôle de la Dette tiendra sa comptabilité de manière que les comptes, arrêtés à la fin de chaque année financière, fassent ressortir séparément les revenus de toutes natures perçus dans la zone internationale et affectés par les contrats au service des emprunts. La municipalité pourra vérifier cette comptabilité chaque année dans les conditions indiquées par le firman chérifien ci-annexé.

"Le Gouvernement de la République française déclare être disposé à se prêter à la conversion des emprunts 1904 et 1910 à la date la plus rapprochée prévue par les contrats, sous la seule réserve que les conditions du marché financier le permettent.

"La zone internationale supportera sa part proportionnelle des charges du nouvel emprunt grâce auquel ceux de 1904 et 1910 auront été convertis.

"La novation desdits emprunts sera effectuée après entente préalable entre les trois zones."

Mr. White accepte cette rédaction, à laquelle toutefois il demande que soit faite l'addition suivante:—

"Au cas où cette entente ne se réaliserait pas, la municipalité de Tanger pourra exiger la capitalisation de sa part des charges afin de s'en libérer au moyen d'un emprunt spécial contracté par elle-même."

M. Dupeyrat accepte cet article additionnel sous réserve qu'en matière d'emprunts la majorité requise au Comité de Contrôle soit des deux tiers des membres.

Mr. White et M. Padilla observent que dans le texte ci-dessus il n'est pas question de l'indemnité de guerre française et voudraient en conclure que le Gouvernement de république consent à en faire l'abandon.

M. Dupeyrat répond qu'aux termes de ses instructions il est autorisé à reconnaître sur le terrain de l'indemnité de guerre l'esprit de conciliation dont il aura été témoin par ailleurs par ses deux collègues.

Art. 9. "Que les recettes douanières encaissées à l'importation par le Bureau de Tanger devront être réparties entre la zone internationalisée et les deux autres zones, au prorata de la destination finale des marchandises. En attendant que le fonctionnement des chemins de fer permette une exacte répartition des sommes dues à la zone espagnole et à la zone française, le service des douanes versera en dépôt à la Banque d'État l'excédent de ses recettes, paiement fait de la part de Tanger.

"Cette part est provisoirement fixée à pour cent du total des recettes locales.

"Les administrations douanières des trois zones s'entendront par l'entremise de représentants, qui se réuniront périodiquement à Tanger, sur les mesures propres à assurer l'unité d'application des tarifs. Ces délégués se communiqueront à toutes fins utiles les informations qu'ils auront pu recueillir tant sur la contrebande que sur les opérations irrégulières éventuellement effectuées dans les bureaux des douanes."

Cet article est adopté, M. Dupeyrat précisant que l'Administration douanière de la zone internationale sera, pendant la durée des emprunts 1904 et 1910, le Contrôle de la Dette, et M. Padilla faisant ses réserves en sens contraire, d'accord avec sa déclaration ci-dessus inscrite.

Art. 10. Mr. White propose l'insertion du § 1 de l'article 15 ainsi conçu:—

"En ce qui concerne les avances faites par la Banque d'État sur le 5 pour cent des douanes, il a paru équitable de faire supporter par les deux zones française et espagnole non seulement les remboursements desdites avances, mais d'une manière générale les charges de la liquidation du passif actuel du Makhzen."

M. Dupeyrat est disposé, en principe à consentir au profit de la zone internationale l'acte de générosité demandé par Mr. White et M. Padilla consent aussi à recommander l'idée à son Gouvernement, bien entendu que cela serait dans la proportion fixée au deuxième paragraphe de l'article 15.

La suite de la discussion est renvoyée à la prochaine réunion.

La séance est levée à 1 heure cinquante.

Enclosure 4 in No. 85.

Procès-verbal of Twenty-fifth Meeting of Tangier Mixed Commission, held April 16, 1913.

LA Commission mixte d'internationalisation de Tanger s'est réunie au Palais du Ministère d'État, le mercredi, 16 avril, à 10 heures et demie du matin.

Le procès-verbal de la précédente séance est adopté.

La Commission revient sur la discussion relative à l'application des traités internationaux dans tout le Maroc. De l'échange de vues auquel il est procédé, il résulte que le désaccord précédemment constaté porte non pas sur le principe, mais sur son application.

Les trois délégués sont d'accord pour recommander à l'adoption de leurs Gouvernements respectifs une formule qui contienne les exceptions nécessaires à la règle qui semblait posée en termes généraux par l'article relatif aux futurs traités internationaux (voir procès-verbal de la vingt-unième séance).

La Commission adopte les projets d'articles suivants :—

Art. 11. "En vue de réserver à chaque zone le produit des redevances minières qui doivent naturellement lui revenir, il est entendu que les redevances proportionnelles d'extraction appartiendront à la zone où la mine est située lors même qu'elles seraient recouvrées à la sortie par une douane de l'autre zone.

Art. 12. "L'autonomie administrative de la zone internationale ne pouvant porter atteinte aux droits, prérogatives et privilèges concédés, conformément à l'Acte d'Algésiras, à la Banque d'État du Maroc, pour tout le territoire de l'Empire, par le Gouvernement marocain, la Banque d'État du Maroc continuera de jouir dans cette zone de tous les droits qu'elle tient des actes qui la régissent, sans diminution ni réserve. L'autonomie de la zone internationale ne pourra pas faire obstacle à son action et les deux Gouvernements faciliteront à la Banque d'État le libre et complet exercice de ses droits.

"La Banque d'État du Maroc pourra, sur la demande de la municipalité de Tanger et d'accord avec les Gouvernements français et espagnol, modifier les conditions de son fonctionnement en vue de les mettre en harmonie avec l'organisation territoriale de la zone internationale.

"En ce qui concerne :

"1. Les actions de la Banque qui pourraient appartenir au Makhzen ;

"2. Les bénéfices revenant au Makhzen sur les opérations de frappe et de refonte de monnaies, ainsi que sur toutes les autres opérations monétaires (article 37 de l'Acte d'Algésiras), il est entendu qu'il sera attribué à l'administration de la zone internationale une part calculée d'après le même pourcentage que pour la redevance et les bénéfices du monopole des tabacs."

Mr. White demande que l'article ci-dessus soit complété par le paragraphe suivant :—

"Les trois Gouvernements recommanderont à la Banque d'État l'étude d'une modification de ses statuts permettant la nomination par la municipalité de Tanger d'un commissaire adjoint qui sera spécialement chargé de contrôler les opérations financières de la zone internationale avec ces banques."

MM. Padilla et Dupeyrat ne font pas l'objection de principe à la demande de Mr. White et pensent qu'elle pourra être admise par leurs Gouvernements.

Art. 13. "L'autonomie administrative de la zone internationale ne pouvant porter atteinte aux droits prérogatives et privilèges concédés, conformément à l'Acte général d'Algésiras, pour tout le territoire de l'Empire, par le Gouvernement marocain, à la Société internationale de Régie co-intéressée des Tabacs au Maroc, ladite société continuera de jouir, dans ladite zone de tous les droits qu'elle tient des actes qui la régissent, sans diminution ni réserve. L'autonomie de la zone internationale ne pourra pas faire obstacle à son action et la municipalité lui facilitera le libre et complet exercice de ses droits.

"Les conditions actuelles de l'exploitation du monopole, et en particulier le tarif des prix de vente en zone internationale, ne pourront être modifiés que d'accord avec les deux Gouvernements, français et espagnol."

Mr. White demande qu'en cas de rachat, prévu par l'article 17 de la Convention franco-espagnole, la zone internationale puisse exercer le même droit pour ce qui concerne son territoire et sous les mêmes conditions.

M. Dupeyrat ne fait pas d'objection de principe et réserve simplement la forme dans laquelle il pourra être donné satisfaction à Mr. White.

M. Padilla adhère à la proposition de Mr. White.

La fin de l'article 13 sera ainsi conçue :—

"Afin de maintenir pendant la durée du monopole l'identité du tarif des prix de vente dans les trois zones, la municipalité de Tanger ne pourra pas assujettir la Régie, ou ses ayants droit, à des impôts nouveaux, sans s'être préalablement assurés de l'assentiment des autorités des deux autres zones.

"Le produit des amendes prononcées contre la Régie pour inexécution du cahier des charges ou abus (article 31 du cahier des charges) sera attribué au Trésor de la zone dans laquelle les infractions ou abus auront été commis.

"Pour le partage de la redevance fixe annuelle et des bénéfices (articles 20 à 23 du cahier des charges) on appliquera un pourcentage qui sera déterminé par la puissance de consommation de la zone intéressée comparativement à la puissance de consommation totale de l'Empire. Cette puissance de consommation sera évaluée d'après les perceptions douanières restant effectivement entre les mains de l'administration de la zone, compte tenu du reversement prévu à l'article ci-dessus No. "

Art. 14. Article relatif aux travaux publics, article 18 de la Convention franco-espagnole. Réservé.

Art. 15. L'article relatif à l'unification des tarifs postaux et télégraphiques dans l'intérieur de l'Empire est réservé.

Art. 16. "La ligne du chemin de fer Tanger-Fez sera construite et exploitée dans les conditions déterminées par le protocole annexé à la Convention franco-espagnole du 27 novembre, 1912, comme il est dit à l'article 20 de ladite convention.

Art. 17. "Le service judiciaire est organisé comme il est dit au projet de règlement ci-annexé.

Art. 18. "La convention du 26 février 1904, renouvelée le 3 février, 1909, ainsi que la Convention générale de La Haye du 18 octobre, 1907, s'appliqueront aux différends qui viendraient à s'élever entre les parties contractantes au sujet de l'interprétation et de l'application des dispositions de la présente convention, et qui n'auraient pas été réglés par la voie diplomatique ; un compromis devra être dressé, et il sera procédé suivant les règles des mêmes conventions, en tant qu'il n'y serait pas dérogé par un accord exprès au moment du litige.

Art. 19. "Toutes clauses des traités, conventions et accords antérieurs qui seraient contraires aux stipulations qui précèdent sont abrogées.

Art. 20. "La présente convention sera notifiée aux Gouvernements signataires de l'Acte général de la Conférence internationale d'Algésiras."

La Commission ayant achevé l'examen des articles du Traité franco-espagnol à insérer dans le projet de convention qu'elle prépare, décide, avant de reprendre la discussion des articles réservés, de se livrer officiellement à l'étude des conclusions de la sous-commission judiciaire, et s'ajourne au mardi, 21 courant.

La séance est levée à 1 heure et demie.

[18608]

No. 86.

Mr. White to Sir Edward Grey.—(Received April 23.)

Sir,

Madrid, April 19, 1913.

WITH reference to your despatch of the 14th instant, transmitting translation of a telegram addressed by M. Navarro Reverter to the Spanish Minister at London, enquiring (1) whether His Majesty's Government is disposed to support the proposal made by the Tangier Moors that the right of electing *cadi*, *nadir*, &c., should be vested in the "Consultative Assembly to be elected by the natives," and (2) what is to be understood by the "Consultative Assembly," I have the honour to report that I have spoken to M. Padilla on the subject in order to ascertain more clearly the views of the Spanish Government.

In the letter addressed by the Tangier Moors to the Diplomatic Body in July

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last, translation of which was annexed to the memorandum presented by the Moorish delegates to the Mixed Commission at their sixteenth meeting, the wish was expressed that, in addition to the "Mixed International Council," which they understood was to govern Tangier, there should be a "Moorish Municipal Council," to consist of not more than twenty members, which should be the intermediary between the natives and the "Mixed International Council" in all matters connected with their religion, customs, and civic rights, it is clearly to this "Moorish Municipal Council," and not to the Moorish elected members of the Municipal Assembly, that the delegates referred as the "Consultative Assembly," in which they wish to be vested the right of electing the *cadi*, *nadir*, &c.

In accordance with the agreement come to between Sir Eyre Crowe and M. Dupeyrat on the 3rd February, M. Dupeyrat and I proposed at the sixth meeting of the Mixed Commission that the *cadi* and *nadir* should be appointed by the Khalifa, subject to the approval of the committees of control, under whose supervision they should exercise their functions, and that their dismissal could only be pronounced by the Committee of Control on a two-third majority vote. M. Padilla then reserved his reply, which has not yet been given.

The Spanish Government have always been strongly opposed to the existence of a Khalifa at Tangier, and only yielded under pressure. Their object now is to limit the functions of the Khalifa as far as possible, and they see in the Moorish proposal an opening for depriving him of the right of appointing the *cadi* and *nadir*. In discussing the matter with M. Padilla this afternoon, I told him that I could see no danger in allowing the Khalifa to appoint these officials under the guarantees proposed by M. Dupeyrat and myself, but that, subject to your approval, I would be prepared to support him in suggesting that the wishes of the Moorish population should be met in this respect, though, should M. Dupeyrat object and insist on adhering to the appointment by the Khalifa, I could not support him in pressing the point, as I must abide by the agreement that was arrived at in London. M. Dupeyrat has expressed the desire to meet the wishes of the native population as far as possible; there can, therefore, be no harm in suggesting to him that satisfaction might be given to them on this point. If, however, he refuses to agree, I do not see how we can support the Spanish Government in pressing the matter.

Should M. Dupeyrat be willing to accept the proposal, we will have to consider to what body the election of these officials should be entrusted. The right might be vested in the Moorish elected members of the Municipal Assembly, as suggested by the Spanish Government, though it would be more in accordance with the wishes of the Moors that the election should be in the hands of a larger body. It would, I think, be dangerous to create a Moorish "Consultative Assembly" of about twenty members, as requested. Such an assembly would cause much embarrassment to the municipality, as they would certainly put forward a number of quite inadmissible demands, which it would be difficult to ignore, if the assembly had an official character. There is, I suppose, nothing to prevent the Moors, of their own accord, forming such an assembly of a purely private character to advise the Moorish elected members of the Municipal Assembly, but their existence could not be recognised officially, and neither the Municipal Assembly nor the Committee of Control should enter into direct communication with them. It would, indeed, be better that such a body should not be formed at all, even though its private character were clearly recognised.

I have, &c.

HERBERT E. WHITE.

[19185]

No. 87.

Sir M. de Bunsen to Sir Edward Grey.—(Received April 26.)

(No. 77.)

Sir,

Madrid, April 23, 1913.

I HAVE the honour to forward herewith a further memorandum by Mr. White commenting on the proceedings at the twenty-sixth meeting of the Tangier Commission, of which the *procès-verbal* is likewise enclosed.

The tribute offered by the three delegates to the admirable work done by the judicial sub-commission is certainly very well deserved.

I venture to think that Mr. White is entirely justified in pressing the Spanish delegate to concur in the abolition of consular jurisdiction at Tangier, and I propose

to speak strongly in the same sense to the Spanish Minister of State at the next diplomatic reception. The French Ambassador tells me that he is also pressing the point as strongly as possible. Perhaps you may think it well to mention the matter in conversation with the Spanish Ambassador should an opportunity offer.

I have, &c.

MAURICE DE BUNSEN.

Enclosure 1 in No. 87.

Memorandum by Mr. White.

THE Commission of Jurists, having concluded their labours, communicated to the Mixed Commission the *procès-verbaux* of all their meetings, together with a résumé of their discussions.

The Mixed Commission commenced its examination of the judicial question at its twenty-sixth meeting, held on the 21st instant, having first taken time to study the papers handed in by the jurists. The Mixed Commission desired, before entering on the discussion, to place on record their appreciation of the work of the Commission of Jurists and the expression of their gratitude for the very valuable assistance they have rendered. An entry to this effect was made in the *procès-verbal*, copy of which is enclosed herewith.

It appeared to M. Dupeyrat and myself that the judicial organisation must depend in large measure upon the decision that may be arrived at in regard to the maintenance or abolition of the Consular Courts, we therefore opened the discussion with this question. The matter was discussed at the fourteenth meeting of the Mixed Commission and at the first and second meeting of the Commission of Jurists, the *procès-verbaux* of which were annexed to my memorandum of the 10th instant. M. Dupeyrat, as well as Mr. Brunyate and myself, had been under the impression that the Spanish Government were prepared to agree to the abolition of the Consular Courts, and were merely using the demand for their retention as a lever for securing the appointment of a large proportion of Spaniards on the judicial bench. At the meeting held on the 21st instant, however, M. Padilla declared in categorical terms that his Government would not on any account agree to the abolition of Consular Courts so far as their jurisdiction in criminal matters and questions of personal status were concerned, and all the arguments M. Dupeyrat and I could bring forward would not move him from this position. It may be that he was merely acting a part, as he was very anxious that we should discuss the question of nationality of the judges. M. Dupeyrat and I, however, informed him that this question depended in great measure on that of the maintenance or abolition of Consular Courts. If the latter were to be abolished, the size of the Spanish colony would be taken into account in discussing the question; but if Spanish subjects were not to be justiciable in the International Tribunal in criminal matters and in questions of personal status, &c., there was no reason whatever for the appointment of a large proportion of Spanish judges, or for appointing a Spanish "avocat du Gouvernement." We therefore declined to take any decision on this subject until the question of the Consular Courts was definitely settled.

The more I consider the matter the more I feel convinced that it is essential to abolish consular jurisdiction in the international zone, and MM. Dupeyrat and Berge, as well as Mr. Brunyate, are in complete agreement with me on this point. It is believed that M. Comulada also shares our views, but he is unable to express a personal opinion, being bound by his instructions. M. Berge tells me that at the meeting M. Comulada had made no reply to the arguments against the retention of Consular Courts, but that when at the next meeting he produced the *procès-verbal* (with the drafting of which he had been entrusted), arguments, subsequently supplied by M. Hontoria, were entered as having been used by M. Comulada at the meeting, though they had not really been mentioned by him.

I trust it may be found possible to induce the Spanish Government to yield on this point, as I consider it of considerable importance. The unsatisfactory way in which Consular Courts have in the past exercised jurisdiction has been one of the principal stumbling-blocks in the way of progress at Tangier, and I cannot look upon their retention without dismay.

H. E. W.

Madrid, April 23, 1913.

Procès-verbal of Twenty-sixth Meeting of Tangier Mixed Commission, held April 21, 1913.

LA Commission mixte d'internationalisation de Tanger s'est réunie au Palais du Ministère d'État, le lundi, 21 avril, 1913, à 11 heures.

Le procès-verbal de la précédente séance est adopté.

M. Padilla demande, afin d'éviter tout malentendu possible, à rappeler qu'il n'a pas donné son adhésion au projet d'article relatif au maintien du Contrôle de la Dette, et il confirme sa déclaration faite au début de la 24^e séance.

M. Dupeyrat et Mr. White répondent qu'il ne peut pas y avoir de malentendu à cet égard.

Conformément à sa décision du 16 avril, la Commission passe à l'examen général de la question judiciaire.

La lecture des procès-verbaux des séances tenues par les trois juristes et du résumé méthodique de leurs discussions rédigé par Mr. Brunyate montre que si, sur quelques points importants, l'accord n'a pas pu se faire en vue de propositions communes sur beaucoup d'autres matières; au contraire, les trois délégués techniques sont unanimes à suggérer des solutions extrêmement intéressantes des problèmes difficiles qui leur étaient soumis. La somme de travail qu'ils ont fournie, la science juridique dont ils ont fait preuve, le soin particulier qu'ils ont pris de tenir compte de toutes les circonstances de fait et de milieu, donnent au concours qu'ils ont bien voulu prêter à la Commission mixte une valeur que celle-ci apprécie à tout son prix, et dont elle a l'agréable devoir de leur exprimer sa vive gratitude. Il est décidé que chacun des trois délégués en rendra compte à son Gouvernement.

Les trois principaux ordres de matières sur lesquelles aucun accord n'a pas pu se faire entre les juristes ont trait:

1. Au maintien total ou partiel ou à la suppression des juridictions consulaires;
2. A la distribution par nationalités des sièges du tribunal international;
3. A l'admission ou à la non-admission des indigènes dans ce tribunal.

M. Dupeyrat observe que des trois questions ainsi laissées en suspens, la première, au moins, est primordiale et que, dès lors, il semble à peu près impossible de procéder à une discussion vraiment utile tant qu'elle ne sera pas tranchée. En conséquence, il demande au délégué espagnol s'il fait siennes les déclarations formulées par M. Comulada.

M. Padilla répond affirmativement. Il déclare que son Gouvernement ne peut pas consentir à la suppression des juridictions consulaires à Tanger, qui constitueraient de sa part un sacrifice disproportionné à celui que les autres Puissances auraient à faire. La population espagnole de la future zone internationale est très nombreuse, généralement pauvre, peu instruite. Seul le tribunal consulaire est en mesure de lui inspirer confiance, et d'avoir sur elle une autorité que rien ne peut remplacer, parce qu'il a de sa mentalité, de son caractère et de ses mœurs une connaissance approfondie, et qu'il lui applique une législation qu'elle est habituée à respecter. C'est pourquoi le Gouvernement de Sa Majesté Catholique est fermement décidé à exclure de la compétence du tribunal international, au pénal, tout ce qui a trait à la répression des crimes et des délits, et, au civil, les diverses matières qui ont fait l'objet des réserves de M. Comulada.

Mr. White pense que le maintien des juridictions consulaires équivaudrait à condamner la Municipalité de Tanger à un véritable avortement. Les ressortissants britanniques auraient, comme ceux de toute autre Puissance, avantage à conserver le bénéfice de la justice de leur pays. Le Gouvernement Royal, cependant, a dès la première heure, émis l'avis qu'il convenait d'internationaliser les services judiciaires comme les services administratifs, et on ne voit pas comment on lui demanderait de se prêter à la suppression des Capitulations dans les deux autres zones, où il n'exercera aucune part d'autorité ou de contrôle, si les deux Gouvernements principalement intéressés ne donnent pas l'exemple qu'on est en droit d'attendre d'eux en zone internationale où eux-mêmes exerceront une part importante de contrôle et d'autorité.

M. Dupeyrat appuie les observations de Mr. White. Lui aussi tient à marquer que la France aurait, si elle ne prenait en considération que son intérêt à Tanger, de fortes raisons de vouloir y garder le bénéfice de sa juridiction consulaire. Cependant,

lorsque l'Angleterre l'a interrogé à ce sujet, le Gouvernement de la République n'a pas hésité à répondre qu'il était disposé à en faire entièrement le sacrifice. Il considère, en effet, en premier lieu, qu'en s'engageant à se prêter à l'internationalisation administrative de Tanger, il s'est engagé tacitement par là même à l'internationalisation des services judiciaires.

C'est qu'ainsi que l'a expliqué Mr. White. La seconde est une conséquence logique et nécessaire de la première. Le maintien sur un si petit territoire de plusieurs juridictions civiles et surtout répressives aboutirait fatalement au désordre juridique et à l'énervement de la répression. Si bien organisée que soit la municipalité, si grandes qu'on suppose la compétence et la bonne volonté de ses membres, elle serait condamnée à l'impuissance si à côté d'elle une juridiction, inspirée des mêmes principes, n'existait pas pour assurer le respect de ses actes.

Enfin, laisser, dans le nouveau régime, aux consuls le soin de juger leurs ressortissants serait leur imposer une charge bien lourde et leur créer une situation bien délicate: toujours accusés par les uns de faiblesse et de partialité systématiques, ils ne cesseraient de s'entendre reprocher par les autres un excès de sévérité.

Pour ces trois ordres principaux de motifs le délégué français déclare qu'il est d'accord avec le délégué britannique pour considérer comme désirable la suppression aussi complète que possible des Capitulations et des juridictions consulaires. Il tient à ce que si celle-ci n'est pas réalisée, la responsabilité ne lui en incombe en aucune mesure.

M. Padilla, s'en tenant à sa déclaration, émet l'avis que la Commission pourrait, laissant de côté la question du maintien ou de la suppression des juridictions consulaires dans la mesure demandée par M. Comulada, étudier l'organisation même du tribunal international et la répartition des sièges qu'il comprendra.

Mr. White et M. Dupeyrat répliquent que la composition du tribunal est liée à sa compétence, et que la répartition des sièges devra être faite dans des conditions très différentes selon que la juridiction consulaire répressive sera ou non supprimée.

Finalement la Commission décide de consacrer sa prochaine séance à l'examen des propositions qui ont été formulées à l'unanimité par les trois juristes.

La séance est levée à 1 heure 50 minutes.

[19308]

No. 88.

Sir M. de Bunsen to Sir Edward Grey. — (Received April 26.)

(No. 9.)

(Telegraphic.) R.

Madrid, April 26, 1913.

YOUR despatch No. 36 of 3rd April received 24th April.

I spoke to Minister for Foreign Affairs yesterday as instructed. He said that Spanish Government had acquiesced in French view that draft mining regulations drawn up by four Powers in 1910 had been virtually cancelled by the refusal of one of the Algeiras Powers to accept them as they stood. Text of revised regulations drafted by French and Spanish experts in Paris had been received in Madrid only a few days ago, and accepted by Spanish Government. French Government had been so informed. His Excellency hoped that it was not too late to communicate text to the two other Powers most interested in the question, if not to all the Algeiras Powers, before promulgation in Morocco, so that text might still be modified, if necessary, to meet the views of those Powers. He has telegraphed accordingly to Spanish Ambassador in Paris.

French Ambassador hears that German Government mean to protest against the new regulations unless first submitted for their concurrence.

(Sent to Paris.)

[17743]

No. 89.

Sir Edward Grey to Mr. White.

Sir,

Foreign Office, April 28, 1913.

I HAVE received your memorandum of the 13th instant and the *procès-verbaux* of the 19th, 20th, 21st, and 22nd sittings of the Tangier Commission, which were forwarded to me in Sir M. de Bunsen's despatch No. 67 of the 15th April.

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I approve the suggestion made by you to M. Dupeyrat, as reported in your memorandum that all future treaties between the Sultan of Morocco and foreign Powers should be applicable at Tangier if approved by the Committee of Control, and I am glad to learn from Sir M. de Bunsen's despatch No. 73 of the 12th instant that this point, which threatened to cause considerable difficulty, has been settled in a manner which is satisfactory both to M. Dupeyrat and yourself.

I would take this occasion to observe that, although I am of course prepared to consider and support, so far as I can, your views and suggestions in any case such as the above where a divergence of opinion among the delegates threatens to cause a deadlock in the negotiations, I am anxious to avoid carrying any question so far as the stage where it will be necessary to enter into discussions with the French or Spanish Governments before the Commission has completed its work so far as it has been able to do so. In the present instance, the difficulty has happily been solved at Madrid, but should a similar situation arise where agreement cannot be found, I would suggest that the point should be put aside and taken up again when all the issues on which agreement is possible have been settled. The organisation scheme can then be submitted to the three Governments in as final a shape as the delegates have been able to achieve and the points of difference must be settled by direct negotiation between the Powers. You should, however, continue to keep me informed of any questions on which the Commission cannot agree, as they arise, as well as of any solution of the difficulty that may occur to you.

With regard to the other subjects dealt with in your memorandum under reply, I concur generally in the views expressed by you.

I am of opinion that the machinery of Government in Tangier will work with great difficulty, unless some power is given to the municipality to frame or modify local laws and the suggestions made by you would, I think, ensure this while providing sufficient safeguards against abuse. I concur in the decision as to the appointment of officials, and also in your views as to their nationality. I further approve your proposals in regard to the Adjudication Commissions. The question of the sale of Government lands is more complex, but your suggestion that the right of the municipality to sell them under proper control should be reserved appears to me to be reasonable. It is also very important, in the interests of the municipality's revenues, to secure to them, if possible, the land that will be reclaimed by the construction of the harbour. It is, moreover, logical that this land should accrue to the benefit of Tangier, inasmuch as the port will be the creation of the municipality.

I am consulting the General Post Office on the question of British post offices in Morocco and will address a further despatch to you on this subject.

I am, &c.
E. GREY.

[18608]

No. 90.

Sir Edward Grey to Mr. White.

Sir, Foreign Office, April 28, 1913.
I HAVE received your despatch of the 19th instant respecting the proposal of the Tangier Moors that the right of electing *cadi*, *nadir*, &c., should be vested in a "Consultative Assembly" to be elected by the natives.

In this matter His Majesty's Government are prepared to adhere to the agreement between M. Dupeyrat and Sir E. Crowe, and I approve the language held by you in discussing the question with Señor Padilla. I see, however, no objection in principle to meeting the wish of the natives that the election of the *cadi*, &c., should be entrusted to Moors, and I would accordingly be willing that this right should be vested in the Moorish, as distinct from the European, members of the Municipal Assembly, provided that the French Government agree, but I would be averse to the creation of a larger Moorish official or semi-official body for this one purpose as tending to involve undesirable complications.

Should both the French and Spanish delegates agree to a solution of the question on these lines steps will presumably be taken to enquire of the Tangier Moors whether such a plan would suit their views. But you should only advocate such a solution if you find that M. Dupeyrat is willing to meet the wishes of the Moors in this respect.

I am informing the Spanish Chargé d'Affaires at this Court, in reply to his enquiry, that the question is being discussed at Madrid, so that Señor Navarro Reverter will learn the views of His Majesty's Government from you through Señor Padilla.

I am, &c.
E. GREY.

[18425]

No. 91.

Sir Edward Grey to Mr. White.

Sir, Foreign Office, April 28, 1913.
I HAVE received Sir M. de Bunsen's despatch No. 75 of the 19th instant, transmitting your memorandum of the 18th, and the *procès-verbaux* of the 23rd, 24th and 25th meetings of the Tangier Commission, and I approve generally the attitude adopted by you as reported in those papers.

As you will see from my despatch to Sir M. de Bunsen No. 53^e of this day's date, I agree to the arrangement proposed by you in your memorandum of the 18th instant as to the composition of the adjudication commissions, and I also concur in the view that the Municipality need not necessarily be consulted by the Makhzen when negotiating for any modification of the customs tariff.

It may be convenient at this stage of the negotiations to point out that the main preoccupation of His Majesty's Government is to secure as soon as possible complete agreement between France, Spain and Great Britain, on a system of organisation for Tangier, and to that end they are prepared to accept solutions of the points of difference arising in the course of the negotiations which appear to offer a reasonable compromise. I have, therefore, concurred in the suggestions put forward by you, as I am confident that your judgment and local knowledge will prevent you from making or accepting any proposal which would vitally affect British interests or the future welfare of Tangier itself. It is, however, possible that when the draft scheme of organisation comes to be considered as a whole, some of the decisions reached during the negotiations may be found to be contradictory, or their cumulative effect may go further than is either necessary or desirable, and to that extent the approval given on various points must be considered provisional. His Majesty's Government have neither the wish nor the intention to be obstructive, but they cannot hold themselves irrevocably committed until they have considered and approved the scheme of organisation as a whole.

I am, &c.
E. GREY.

[19620]

No. 92.

Sir M. de Bunsen to Sir Edward Grey.—(Received April 29.)

(No. 78. Confidential.)

Sir, Madrid, April 26, 1913.
I SPOKE yesterday to the Minister of State in the sense of the instructions contained in your despatch No. 36, Confidential, of the 3rd instant, received by messenger on the 24th.

I said that, as you had already informed the Spanish Ambassador in London, His Majesty's Government wish France and Spain to be on the best of terms, and can therefore only welcome the proposed visit of the King of Spain to Paris. I added that it would be unfortunate if the visit should be associated with anything that should give the German Government cause to think that it was intended in any way as a mark of resentment at their attitude in regard to the Riff mines. Such a supposition would probably stiffen the view maintained by Germany, and thus possibly lead to recrudescence of international difficulties in Morocco, than which nothing could be more undesirable for the Spanish Government.

In this connection I gave Señor Navarro Reverter your reasons for feeling that the German Government are, perhaps, not entirely unjustified in taking exception to

* Not printed. Transmitting Foreign Office despatch to Mr. White (17743) April 28, 1913.

the course recently pursued by France and Spain in conducting separate negotiations for revising the draft mining regulations which were jointly drawn up in Paris in the year 1910 by delegates of the four Powers chiefly interested in the matter. I informed him of the memorandum addressed to you on the subject by the German Ambassador two months ago, and of your subsequent memorandum, in which you expressed to the French Ambassador your uncertainty as to the grounds on which the French and Spanish Governments claimed to upset the joint arrangement in question. I added that, although it seemed to you an open question whether France and Spain, so long as they observe the conditions of article 112 of the Algeciras Act and article 5 of the Franco-German Convention of 1911, are not perhaps within their strict rights, you could not but consider their action as showing a certain lack of consideration for Germany and ourselves, and as giving occasion for difficulties which might easily have been avoided by a more courteous method of procedure.

Under these circumstances, in order that the Royal visit to Paris might afford Germany no pretext whatever for resentment, I suggested to the Minister of State that it was perhaps even now not too late to communicate the revised regulations to the British Government as an act of courtesy. I said that such an act could do no harm, and might remove some danger of friction.

His Excellency thanked me for the friendly manner in which you had desired to call attention to the matter. As regarded its legal aspect he could only say that, inasmuch as the right of drawing up all manner of regulations in Morocco had been recognised by Germany in article 1 of the Franco-German Convention of 1911 as being vested in France, which right had since been ceded by France to Spain as regarded the Spanish zone, it is not unnatural that the Spanish Government should have accepted the interpretation which he said had been placed by the French Government on the article in question, namely, that it conferred full and independent rights in respect of drawing up regulations on the two protecting Powers in Morocco.

When I pointed out to Señor Navarro Reverter that the regulations jointly drafted at Paris in 1910 had apparently been regarded by the negotiators of the Franco-German Convention as being still in force in the following year, and were referred to in article 5, paragraph 1, of the said Convention, his Excellency remarked that, without having specially studied the point, he had been under the impression that the continued refusal of the Netherlands Government to accept the draft regulations of 1910 as they stood had resulted in those regulations being no longer of any effect.

I said I had no desire to discuss the legal point, which, as I had already remarked, was regarded by you as an open one. It was merely as a matter of political expediency at the present moment that I had been directed by you to speak to his Excellency on the subject. He again thanked me, and said it would be entirely in accordance with his own wishes if the regulations, as now revised, could still be communicated to His Majesty's Government, to Germany, and indeed to all the Algeciras Powers, in a form which would enable the latter to make their observations upon them before they were promulgated in the Morocco zones. The revised text of the regulations had only reached Madrid a very short time ago. They had been referred at once to the Spanish Mining Department, which had reported upon them only the day before our conversation recommending their acceptance by the Spanish Government as they stood. After securing the same day the concurrence of the Cabinet, he had at once informed the French Ambassador that the Spanish Government accepted the revised text. He presumed that M. Geoffray had already telegraphed the information to Paris. It would now rest with the French Government to bring the new draft to the knowledge of the Powers, and he hoped this might be done in such a manner as not to lead the Governments most interested in the question to suppose that it was too late for them to offer their suggestions in the event of any point seeming to require elucidation.

I informed M. Geoffray confidentially yesterday afternoon of my conversation with Señor Navarro Reverter. He said he had of course telegraphed at once to Paris the acceptance by Spain of the revised regulations. He remarked that, in view of the difference of opinion which existed on the right claimed by France and Spain to supersede the 1910 draft, it seemed to him that the French Government would do well to invite the concurrence of England and Germany before promulgating the regulation. He added that, as the French Government must be acquainted with your view of this question, they would of course desire, so far as possible, to proceed in accordance with them. His Excellency has no doubt telegraphed again to his Government to inform them of my confidential communication to himself, and of his

personal views on the advisability of not confronting the Powers most interested with an irrevocable text, of which they would be powerless to secure the modification in accordance with their own interests.

I have, &c.

MAURICE DE BUNSEN.

[20137]

No. 93.

Sir M. de Bunsen to Sir Edward Grey.—(Received May 2.)

(No. 82.)

Sir,

Madrid, April 28, 1913.

IN the enclosed further memorandum Mr. White comments adversely on the desire shown by the Spanish delegate at the thirtieth meeting of the Mixed Tangier Commission to retain in Tangier a portion of the consular jurisdiction of Spain while surrendering only a specified category of cases to be dealt with by the proposed Mixed Tribunal.

After discussing the question with both Mr. White and Mr. Brunyate, I have felt it my duty to continue pressing the Spanish Government to consent to the total abolition of consular jurisdiction in the Tangier zone. At Señor Navarro Reverter's last diplomatic reception on the 25th April I placed before him some of the considerations on which Mr. White relies in the enclosed memorandum. His Excellency said that he still had an open mind on the subject, though he was rather inclined to think that Spanish consular judges were better qualified than any Mixed Court could be to keep in restraint the turbulent elements of which the Spanish colony at Tangier was largely composed. He promised to reconsider the question in the light of my observations.

On the following day (26th April) I received from his Excellency a private letter enclosing a memorandum, herewith likewise forwarded in translation, together with copy of my reply.

The French Ambassador has also received a copy of Señor Navarro Reverter's memorandum, and he tells me that he has replied to it in similar terms to those used by me, and suggested to the French Government that they should speak strongly to the Spanish Ambassador in Paris in the same sense.

I venture to hope that my action on this question will meet with your approval, and that you will have the goodness to direct me as to any further reply you would wish me to send in to the Spanish memorandum.

I have, &c.

MAURICE DE BUNSEN.

Enclosure 1 in No. 93.

Memorandum by Mr. White.

THE question of the abolition or retention of Consular Courts was again discussed at the thirtieth meeting of the Mixed Commission, which was attended by the judicial advisers. The Spanish delegate stated that, whilst his Government maintained their refusal to surrender their jurisdiction over their subjects in criminal matters in general, they were prepared to admit that, in respect to certain offences, Spanish subjects should be justiciable in the International Tribunal.

After some discussion the following decisions were taken in this sense:—

“Le tribunal international sera compétent, pour connaître de toute infraction commise par des Européens, de quelque nationalité qu'ils fussent, et bien qu'en principe ils ne fussent pas ses justiciables en matière pénale :

“1. A ses audiences, ou dans les lieux où l'un ou plusieurs de ses magistrats procéderaient à un acte de leurs fonctions ;

“2. Contre des magistrats, assesseurs ou agents du tribunal international dans l'exercice de leurs fonctions ;

“3. Contre l'exécution des décisions, ordonnances ou mandats du même tribunal.

“Le tribunal international sera compétent pour toute infraction commise par des assesseurs ou agents dans l'exercice de leurs fonctions ou par suite de l'abus de ces

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fonctions, ainsi que pour les faits de faux témoignage, de faux serment ou subornation de témoins commis à l'occasion de l'exercice de sa juridiction, quelle que soit la nationalité des coupables.

"Le tribunal aura le droit d'appeler en témoignage devant lui les Européens, avec les droits de contrainte et les peines prévues (ou à prévoir par la loi pénale à rédiger), contre le refus de comparaître et de témoigner.

"Les agents et employés des services municipaux de Tanger seront justiciables du tribunal international pour toutes les infractions commises dans l'exercice ou à l'occasion de leurs fonctions ou au préjudice desdits services.

"Toutes les infractions commises par une association de malfaiteurs de nationalités différentes sera portée devant le tribunal international. Sera considérée comme association de malfaiteurs toute réunion d'au moins trois individus, armés ou non, qui a commis, tenté ou préparé une infraction avec violence contre des personnes ou des propriétés.

"Le tribunal international sera également qualifié, quelle que soit la nationalité des délinquants, pour connaître des infractions aux règlements municipaux dont les peines ne dépassent pas la compétence du juge jugeant seul.

"Il sera également compétent, sans limitation de peine et sans exception de nationalité, pour les infractions aux règlements municipaux portant sur la matière dont l'énumération est annexée :

- "1. Réglementation des jeux de hasard ;
- "2. Réglementation de l'exercice de la profession de médecin, pharmacien ou sage-femme ;
- "3. Infractions relatives à la détention et la mise en vente de denrées alimentaires avariées ou falsifiées ;
- "4. Infractions aux règlements sanitaires maritimes.

"Pour les matières non comprises dans cette énumération, le tribunal international sera de même compétent s'il s'agit de règlements municipaux approuvés par le Comité de Contrôle à l'unanimité de ses membres."

The acceptance of these proposals by the Spanish delegate certainly constitutes a considerable advance on the position originally taken up, but I am strongly of opinion that we should, nevertheless, press for the total abolition of Consular Courts, as their continued existence will constitute an infringement of the true autonomy of Tangier, and will render the administration of the district difficult. If consular jurisdiction is to be retained a difficulty will also arise in connection with the police; either the Spanish and other Governments will keep on their present police, in which case the powers of the municipal police will be correspondingly limited, and there will be danger of occasional conflicts, or else the municipal police will have to be to some extent under the orders of the consular officers, which is also undesirable. Moreover, one cannot shut one's eyes to the fact that some Consular Courts have in the past been very unsatisfactory, frequently doing their best to shield their nationals in cases of complaints brought against them by persons of other nationalities. On the other hand, if Spanish consular authorities are to retain their present arbitrary powers over their nationals, the freedom of the latter will disappear in matters of municipal elections, &c. Spanish subjects will have to vote as they are directed. The same is true to some extent of the French and some others also. The maintenance of Consular Courts would do more than almost anything else to keep up the distinction and rivalry between nationalities, and would tend to prevent that fusion which is so desirable. Speaking from our own experience, the proper administration of justice by Consular Courts is surrounded with difficulties; in the first place the consular officer, acting as judge, has seldom the necessary legal knowledge and experience; then, again, the powers of the Court are limited, so that in serious cases the accused has to be sent for trial elsewhere. We have on several occasions found it quite impossible to secure the attendance of the necessary witnesses at Gibraltar; the difficulty would be correspondingly greater when the place of trial is further.

It might be thought that the maintenance of Consular Courts would at any rate have the advantage of reducing the expenses of the municipality, and that from the financial point of view it would be desirable; we are, however, informed by our judicial advisers that this is not the case, as the number of judges they have recommended could not be reduced even if the Consular Courts remain.

In these circumstances I trust that pressure may be brought to bear on the Spanish Government to induce them to yield on this point and to consent to the

international tribunal exercising jurisdiction over Spanish subjects in all criminal matters. It is difficult to see how they can reasonably expect other Powers to surrender their consular jurisdiction in the Spanish zone if they themselves will not surrender it in the international zone, where they are certain that a Spaniard will in that case be appointed "avocat du Gouvernement," and that they will secure the nomination of a fair proportion of Spanish judges.

H. E. W.

Madrid, April 27, 1913.

Enclosure 2 in No. 93.

Memorandum by Spanish Government.

THE British Government, in the memorandum of the 18th November, submitted to the French Government the considerations by which they were dissuaded from contemplating the immediate suppression of foreign consular jurisdiction in Tangier, and from linking such suppression with the establishment of the municipality—a course which might have been productive of great delay. The Spanish Government are disposed to attach weight to these considerations. It is, indeed, important not to overlook the fact that, while, from a legal point of view, the Constitution of the municipality might be drawn up and even put in practice by the joint will of the three Powers which are dealing with the question, the suppression of consular jurisdiction would require an express act of denunciation on the part of the Powers which enjoy that privilege by virtue of treaty.

What would be the attitude of these Powers and the conditions to which they would subordinate their renunciation it is difficult to foresee. But it is obvious that, if they demanded participation in the tribunal which is to be set up, the said tribunal would have to consist of many judges, and would therefore be very expensive; it would exercise its functions with difficulty, and the participation in it of countries which have very important colonies and predominant interests in Tangier would be proportionately diminished to such an extent that such Powers, and especially Spain, could not properly give up their own jurisdiction and submit their nationals to a jurisdiction on which they would be inadequately represented.

The British Government, in the memorandum above referred to, proposed, therefore, that for the moment the tribunal should only be competent to try (1) infractions of municipal laws and regulations by persons of whatever nationality, and (2) suits against the municipality, Contrôle de la Dette, Régie, and similar official or quasi-official institutions. Nevertheless, when the British and French delegates on the judicial Sub-Commission expressed their desire to extend the competency of the future tribunal to other matters, the Spanish delegate, in a spirit of conciliation, was ready to meet their wishes. Thus it was arranged that consular jurisdiction will not be maintained, for instance, in civil and commercial cases. It was impossible for Señor Cumalada to agree that it should cease in penal cases (except, of course, as regards infractions of municipal laws and regulations), and his attitude on this point has been blamed as uncompromising, though the contrary clearly appears from the foregoing.

The Minister of State calls the British Ambassador's attention to this matter, and requests him to instruct the delegates of his country not to press the point. He also hopes that he will invite Mr. White and Mr. Brunyate, when dealing with the composition of the tribunal, to adopt a favourable disposition toward Spain. The tribunal is to have two posts of first importance, that of the President and that of the representative of the Government. Clearly both cannot fall to the same nationality, and, France claiming the President, it seems logical to recognise *ipso facto* the right to fill the other post as belonging to a subject of the Power which shares with France the protectorate of Morocco, which has in Tangier a colony twice as large as all the foreign colonies together, and in whose zone the municipal zone forms an enclave.

Of the judges themselves it is proposed to assign only one to Spain, and, in support of this inadmissible proposition, stress is laid on the extent of the real and commercial property owned by the different nations in Tangier. On the figures produced, on the injustice of taking them as a basis, on the failure to give weight to the active relations, necessarily involving litigation, which exist between the municipal zone and the neighbouring Spanish zone and Spanish territory, much might be said.

But it is unnecessary to go into these matters further than to remark that, if this or that colony be composed mainly of landlords, manufacturers, and traders, the majority of the inhabitants, the labourers and consumers, must belong to another nationality; and, as in a case of law, as a general proposition, one party is no less worthy of consideration than another, there is no reason why one particular category of litigants should be more fully represented on the tribunal than another. The more it is argued (and the Minister of State repeats that there is much to be said on the point) that a particular colony in Tangier is composed of members belonging to a certain social class, the more dangerous it becomes to set up a tribunal on a class basis.

Madrid, April 27, 1913.

Enclosure 3 in No. 93.

Memorandum by Sir M. de Bunsen.

SIR MAURICE DE BUNSEN is transmitting to Sir Edward Grey a translation of the memorandum courteously communicated to him by the Minister of State with reference to their conversations of the 26th instant on the subject of the judicial organisation of Tangier. Subject to any further reply which he may be instructed to return to Señor Navarro Reverter, he ventures to offer the following observations upon it:—

Reference to the two British memoranda of the 23rd September and 18th November, 1912, will show that in both documents the British Government pressed for the complete suppression of consular jurisdiction at Tangier at the earliest possible moment. If in the memorandum of the 18th November they contemplated the immediate establishment of a tribunal empowered to try a limited category of cases, and intended to exist concurrently with the Consular Court, this arrangement was only put forward "as a purely temporary measure" and as a stepping-stone to the establishment with the least possible delay of "a single international jurisdiction."

It has since appeared possible and highly desirable to suppress the intermediary period of concurrent jurisdiction which was contemplated six months ago. The object of the Mixed Judicial Sub-Commission which has been lately sitting at Madrid was therefore, as Sir Maurice de Bunsen understands, that of devising at once the "single international jurisdiction" which the British Government always regarded as the proper foundation of the future judicial system of Tangier.

In these circumstances it appears to the British Ambassador that, though the proposals of the Spanish delegate to the Mixed Commissions were no doubt framed in the most conciliatory spirit to meet the case of a temporary tribunal destined to co-exist for as short a time as possible with the Consular Courts, and finally to assume all the powers still left to the latter, those proposals did not sufficiently take into account the great advantages derivable from the immediate establishment of a complete judicial organisation.

Sir Maurice de Bunsen ventures to hope that the Minister of State will reconsider the question in the light of the above remarks. As regards the number of judges to be assigned respectively to the different nations concerned, it appears to him that no final decision can usefully be taken until an agreement has been reached regarding the retention or abolition of consular jurisdiction.

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No. 94.

Viscount Kitchener to Sir Edward Grey.—(Received May 3.)

(No. 38.)

Sir,

Cairo, April 27, 1913.

WITH reference to your despatches Nos. 17 and 59 of the 30th January and 10th instant respectively, regarding the wish of the French Government to assume the protection of Moorish subjects residing in Egypt, I have the honour to observe that up to the present time the legal status of all such persons has been that of other foreigners residing in the country who are not subjects of a Power which has acquired special privileges by capitulations or by special treaties.

In penal matters Moorish subjects are therefore under the native Tribunals. In matters of personal statute the Mehkeme Charié and the Meglis Hasbis have jurisdiction. In other civil actions they are assimilated to local subjects by the native Tribunals, and to privileged foreigners by the Mixed Tribunals.

The only decision of any Court dealing with the possible change of status owing to the present position of France in Morocco is one taken by the Summary Tribunal in February last, to the effect that no change of status can take place until the Powers have recognised the protectorate of France over Morocco.

It is now apparently proposed that all Moroccans residing in Egypt, amounting to some 2,000, should be withdrawn from the jurisdiction of the local Courts, both as regards their disputes with local subjects and as regards any criminal act they may commit.

It appears very inopportune that at the moment when negotiations are proceeding in France with a view to the suppression of the Capitulations, the Egyptian Government should be asked to extend that privileged system to a large number of Mahommedans residing in the country, and hitherto subject in all criminal matters and in all disputes with natives to the local jurisdiction. If, however, it is none the less desired to meet the wishes of the French Government, I venture to suggest that every effort should be made to restrict as far as possible the practical effect of the concession. Many of the Moroccans in Egypt have doubtless been here for generations, and have no longer any real connection with Morocco. It would, therefore, be advisable at the very least that the Tunisian precedent should be followed, which reduced within strictly defined limits the category of persons to be recognised as French-protected subjects.

By an arrangement come to between the French and Egyptian Governments in 1888, only those Tunisians who were themselves born, or whose fathers were born, in Tunisian territory were to be recognised as being of Tunisian origin. No earlier origin was to be of any avail. Lists of such persons were drawn up at the time, and it was agreed that no further lists should be produced in future. The only other Tunisians who were to be recognised by the Egyptian Government as French subjects were to be those who might come to Egypt subsequently, and who were required to produce certain specific proofs of their Tunisian origin. In the case of mere travellers, passports only were accepted as sufficient evidence. The rules as to what should constitute "origin" were taken from those which had previously been laid down in interpretation of the terms of article 13 of the Convention of the 9th August, 1881, between Turkey and Greece, concerning the cession to Greece of certain provinces of Thessaly and Epirus.

That article laid down that "les individus originaires" of the ceded provinces became Greek subjects unless they exercised an option within a specified time. The Egyptian Government laid down that as regards so-called Thessalians in Egypt, they were unable to admit as "originaires" of Greek provinces any persons except those who were born there, or born of parents from the said provinces. This reservation was accepted by the Greek Government. I think we should insist on similar rules as regards Moroccans residing in Egypt, or who may settle here subsequently.

I may add that none of the Moroccans I have met since coming to Egypt have ever expressed any wish to come under French protection.

I have, &c.

KITCHENER.

[20635]

No. 95.

Sir M. de Bunsen to Sir Edward Grey.—(Received May 5.)

(No. 83.)

Sir,

Madrid, April 30, 1913.

IN the enclosed memorandum transmitting the *procès-verbal* of the sitting held by the Mixed Commission on the 28th April, Mr. White requests instructions as to the attitude he should assume on the question of the Powers of the Committee of Control in respect of the dismissal or retention in office of the Khalifa.

I venture to think that Mr. White was very well advised in making a formal reassertion in the proceedings of the Mixed Commission of the principle of the equality of the different nations at Tangier. The able French delegate to the Commission is too much given, in conversation, to assume the preponderance of France and Spain in

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the international zone, and to draw conclusions from it which seem incompatible with the assurances given by France in the course of the preliminary discussions between London and Paris.

I have, &c.

MAURICE DE BUNSEN.

Enclosure 1 in No. 95.

Memorandum by Mr. White.

ON one or two occasions I have mentioned to M. Dupeyrat that it will be necessary to complete the article regarding the appointment of the Khalifa by adding a clause providing that, once appointed, his dismissal or retention in office will be impossible without the consent of the Committee of Control. I also pointed out that it would be desirable that a Tangier Moor should be selected for the post, and that his name should be previously submitted to the Committee of Control, so as to give them an opportunity to put forward any objections they might have to offer to the appointment.

M. Dupeyrat objects to any limitation whatever being placed upon the Sultan's discretionary powers in this respect. He argues that the position of the Khalifa is analogous to that of the foreign representatives, and that the Committee of Control can have no more voice in his dismissal or retention in office than in that of any other of its members. He states that, had His Majesty's Government accepted the French proposal that the Khalifa should be entrusted with administrative powers, such as those to be exercised by the Khalifa in the Spanish zone, he would have been prepared to accept my proposal, but as the Khalifa in the international zone has been shorn of all powers, except those he will exercise in his capacity as a member of the Committee of Control, absolute freedom must be left to the Sultan to appoint whomsoever he may please and to dismiss him as and when he may think proper.

I urged that the Khalifa, once appointed, should enjoy some measure of independence. If he is to be liable to dismissal by the Sultan at any moment, with or without good cause, he will never dare to vote on any question according to his own judgment; he will be obliged to vote as directed by the French representative, even though he may be in complete disagreement with him on the subject. It would be simpler to abolish the post of Khalifa altogether and give the French representative two votes on the Committee of Control. This could scarcely be considered consistent with the principle of the equality of all the Powers at Tangier. I added that, from a telegram I had received from Sir E. Grey at the time, I had understood that, as a result of his discussions with Sir E. Crowe, it had been decided that the Khalifa should be honorary President of the Committee of Control and should appoint the *cadi* and *nadir* under certain guarantees, but that in other respects he (M. Dupeyrat) had accepted the views of His Majesty's Government in regard to that official, and one of the points upon which we had laid stress was precisely that embodied in my proposition.

M. Dupeyrat replied that I was entirely mistaken; the agreement arrived at was merely as stated in the note of M. Cambon of the 4th February, no further guarantees being required as to the Khalifa.

I transmit herewith a note which M. Dupeyrat has handed to me, explaining his views.

I should be obliged if I could be furnished with instructions on this point by telegraph. I do not think it necessary to insist that the Khalifa should be a Tangier Moor, or that his name should be submitted to the Committee of Control before the appointment is made, as, though such a course would be preferable, it would in practice be difficult for the Committee of Control to give good grounds for objecting to any person the Sultan is likely to appoint. From what M. Dupeyrat tells me, it seems probable that it is intended to give the appointment to Cid Guebbas, who has shown himself entirely amenable to French influence, and for whom it might be difficult to find a post elsewhere. I think, however, we should make every endeavour to obtain the acceptance of the principle that, once appointed, the Khalifa should be independent, though it is not one upon which, in my opinion, we should insist to the point of allowing a deadlock in the negotiations to ensue.

M. Dupeyrat has, in the course of recent discussions, been basing demands in regard to various matters upon the postulate that France and Spain, as the protecting

Powers in Morocco, are entitled to a predominant position at Tangier and to rights over and above those of other Powers. It seemed to me necessary, therefore, to take an opportunity to place on record that this was a postulate which I could by no means accept. The opportunity offered itself at the thirty-second meeting, held on the 28th instant, when M. Dupeyrat claimed on those grounds that the appointment of president of the international Tribunal, and of "avocat du Gouvernement" should be given to a Frenchman and a Spaniard respectively. I stated that I could not in any way admit the claim to predominance on the part of France or Spain, or any rights based on such predominance, as that would be in direct contradiction of the accepted principle of the equality of all nations at Tangier. As M. Dupeyrat adhered to his point, I quoted against him the second paragraph of the memorandum of the French chargé d'affaires in London of the 27th August last (36332). (See Morocco print of that date, section 1.)

M. Dupeyrat is, however, never willing to give up a point, and took refuge in a vague reference to the "ensemble de l'échange de vues entre Paris et Londres." Having placed on record my reserve, and supported it by the quotation from the French memorandum, which appears in the *procès-verbal*, I did not consider it necessary to pursue the matter further. M. Dupeyrat, however, asked permission to correct his statement, as it appeared in the *procès-verbal*, and substituted "situation prééminente" for "situation prédominante," which originally appeared in the first consideration, of which account must be taken in the distribution of seats on the bench amongst the various nationalities. He also changed "n'ayant droit," at the end of his proposal, into "consentant à ne pas prétendre."

The *procès-verbal* of the thirty-second meeting is annexed hereto.

H. E. W.

Madrid, April 30, 1913.

Enclosure 2 in No. 95.

M. Dupeyrat to Mr. White.

Mon cher Collègue,

Madrid, le 30 mars, 1913.

AINSI que je vous l'ai dit, je considère que la question du Khalifa était réglée par nos décisions déjà acquises, tout à fait dans l'esprit de l'arrangement de principe que j'ai eu l'honneur de conclure avec Sir Eyre Crowe.

Vous connaissez la thèse française : elle est résumée dans notre memorandum du 10 octobre, dont il me paraît inutile de reproduire ici les termes. Je vous rappelle seulement que nous avons toujours tenu pour essentiel que le Khalifa représente effectivement le Sultan et ne soit pas en position d'infériorité au regard des consuls, ses collègues à la Commission de Contrôle. De là résulte avec évidence qu'il doit être librement choisi par le Sultan et que son maintien en fonctions ou sa révocation ne saurait, en aucune manière, dépendre de la volonté des autres membres du Comité de Contrôle.

La meilleure preuve qu'on l'a bien compris ainsi à Londres, c'est que dans la courte note du Foreign Office, portant date du 3 février dernier, le Khalifa est représenté comme devant être le président d'honneur du Comité de Contrôle et qu'aucune réserve n'est faite en ce qui concerne sa nomination et son rappel.

Tout au contraire, votre Gouvernement a soigneusement pris acte de ce que le *nadir* et le *cadi*, nommés par le Khalifa, doivent, ainsi que nous-mêmes l'avions proposé spontanément, demeurer sous la surveillance du Comité de Contrôle.

C'est qu'il ne s'agissait plus ici, en effet, de représentation du Sultan, mais bien de l'exercice de fonctions administratives ou judiciaires.

Dans ces conditions, je crois avoir fait une concession sérieuse (et dont vous-même avez bien aperçu le côté regrettable) en acceptant, sur la demande de M. Padilla, que le Khalifa n'ait pas son délégué à l'Assemblée municipale. Je ne saurais aller aujourd'hui plus loin et je reste persuadé que, si vous voulez bien consulter votre Gouvernement au sujet de la question nouvelle que vous venez de soulever, vous serez autorisé à vous en tenir aux textes qui figurent aux *procès-verbaux* de notre commission.

Veillez, &c.

J. I. DUPEYRAT.

Procès-verbal of Thirty-second Meeting of Tangier Mixed Commission, held April 28, 1913.

LA Commission mixte d'internationalisation de Tanger s'est réunie au Palais du Ministère d'État, le lundi, 28 avril, à 10 heures et demie.

Le procès-verbal de la précédente séance est adopté.

Mr. White signale que le procès-verbal de la 30^e séance n'indique pas d'une façon suffisamment claire que les propositions de M. Berge ont été sanctionnées, le mot "adopté" pouvant sembler ne s'appliquer qu'à la proposition complémentaire de M. Dupeyrat mise en formule par M. Comulada.

La Commission constate le bien-fondé de cette observation et décide de faire sur-le-champ au procès-verbal de la 30^e séance l'addition nécessaire.

Au sujet du procès-verbal de la 31^e séance Mr. White déclare, sur la prière de ses collègues, qu'il consent à retirer sa réserve relative à la désignation des magistrats du tribunal international, bien qu'il persiste à considérer qu'il eût été préférable pour la bonne marche de la justice de laisser à la municipalité la faculté de présenter un candidat de son choix, et de n'avoir qu'à consulter à son sujet le Gouvernement intéressé.

La Commission examine s'il lui est possible de dégager une formule de répartition par nationalité des sièges au tribunal international.

Sur la demande de M. Padilla, M. Dupeyrat expose qu'à son avis il faut tenir compte des principales considérations suivantes :—

1. Situation prééminente, en droit et en fait, de la France et de l'Espagne, Puissances protectrices au Maroc.
2. Nécessité de conserver au tribunal un caractère international réel.
3. Nécessité de tenir compte équitablement des intérêts à Tanger de toutes les Puissances, afin qu'aucune d'elles n'ait de motif de refuser son adhésion à l'organisation projetée.

En conséquence et pour concilier ces diverses nécessités, le délégué français pense qu'on pourrait limiter à deux le nombre des sièges détenus par une même Puissance dans le tribunal; que la situation prépondérante de la France et de l'Espagne exigent que soient attribués à ces deux Puissances les deux postes du président et de l'avocat du Gouvernement; que les sièges de juge seraient répartis entre les Puissances en proportion de leurs intérêts, cette proportion étant fournie par l'application d'une formule mathématique, avec limitation de deux sièges à une même nationalité, la France et l'Espagne consentant à ne prétendre en plus du président et de l'avocat du Gouvernement qu'à un seul siège de juge.

M. Padilla répond par la déclaration suivante :—

"J'aurais été heureux de m'associer à l'opinion émise par M. Dupeyrat. Je ne crois par toutefois pouvoir m'abstenir de présenter une observation que j'estime fondamentale pour les intérêts de la colonie espagnole à Tanger.

"Il n'est pas besoin de rappeler que mon Gouvernement considère ses intérêts comme lui donnant droit à une position spéciale dans la matière que nous discutons à présent. C'est pourquoi il demande pour un de ses nationaux la poste d'avocat du Gouvernement, étant donné que celui-ci doit naturellement revenir à la Puissance dont les ressortissants à Tanger sont les plus nombreux. Je n'hésiterais pas à reconnaître à la France le droit de faire prendre le président du tribunal parmi ses ressortissants. Toutefois, la limitation que M. Dupeyrat suggère, en ce qui concerne le nombre des juges de chaque nationalité diminuerait la position de l'Espagne dans le tribunal lui-même, la France ayant pour elle le président et un juge, l'Espagne n'y comptant qu'un juge. Je ne doute pas que mes collègues apprécieront les raisons par lesquelles mon Gouvernement se trouve empêché de donner son adhésion à cette formule."

Mr. White observe qu'il ne peut pas admettre que la France et l'Espagne aient droit à aucune prépondérance à Tanger, qui devra être international en fait aussi bien qu'en nom. Un des principes qui ont été admis par les trois Gouvernements et adoptés comme bases pour ces négociations, c'est précisément l'égalité absolue de

toutes les Puissances à Tanger. Ni la France, ni l'Espagne n'y aura d'autres droits que ceux des autres Puissances.

C'est vrai qu'il a été également admis que, tout en sauvegardant ce principe capital, on devrait tenir compte, dans la mesure du possible, de l'importance relative des diverses colonies et de leurs intérêts. A ce point de vue donc Mr. White se déclare prêt à adopter la formule de M. Dupeyrat pour la répartition à faire actuellement des sièges des magistrats et de l'avocat du Gouvernement, pourvu qu'il reste bien entendu que cette répartition ne s'applique que pour le terme de la présente convention et que lors de son renouvellement ou de sa revision on procédera à une nouvelle répartition, pour laquelle on tiendra compte des changements qui pourraient être survenus dans l'importance relative des diverses colonies et de leurs intérêts.

M. Dupeyrat s'en tient à ses observations ci-dessus.

Mr. White le prie de se reporter au mémorandum de l'Ambassade de France à Londres en date du 27 août, 1912, où il est dit :—

"La France a été toujours disposée à installer à Tanger un régime international, et sa conduite même démontre qu'elle a constamment voulu exécuter ses engagements à cet égard. Le Gouvernement de la république n'a aucune visée particulière sur Tanger; il n'y recherche aucun privilège et aucun avantage d'aucune sorte; sa seule préoccupation et on ne saurait en contester la légitimité est de ne se prêter qu'à la création d'un organisme viable, dans lequel la France n'aura pas d'autres droits que ceux des autres Puissances, mais dans lequel aussi elle ne sera pas placée dans une situation d'infériorité."

M. Dupeyrat répond que c'est l'ensemble de l'échange de vues entre Paris et Londres sur cette question qu'il faut considérer; qu'au surplus c'est là une discussion de principe aisément évitable à la Commission mixte, puis qu'en fait Mr. White accepterait sa proposition.

La Commission ne peut dans ces conditions que prendre acte du désaccord de ses membres et reconnaître qu'elle n'est pas en mesure de soumettre aux trois Gouvernements une formule de répartition des sièges entre les diverses nationalités.

La séance est levée à 1 heure trois quarts.

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No. 96.

Mr. White to Sir Edward Grey.—(Received May 5.)

Sir,

Madrid, April 30, 1913.

I HAVE deferred replying to your despatch of the 7th instant in regard to the desire of the Société internationale pour le Développement de Tanger (a subsidiary company of the Société marocaine de Travaux publics) to obtain a concession for the construction and exploitation of a harbour at Tangier, as I was desirous before offering my observations, to be in possession of the promised further report of the delegates of the Syndicat international pour le Développement de Tanger. At the time of receiving your despatch under reply I had been informed that the report would reach me in a few days; it was only yesterday, however, that I received it, and then only in draft form, the official copy not being yet ready for despatch.

I have the honour to transmit herewith a brief summary of the statistics and estimates contained in the report together with an extract therefrom, setting forth the views of the syndicate on the subject. The syndicate are of opinion :—

1. That it is all important that the harbour be constructed as soon as possible.
2. That the municipality will not have the means of constructing it at its own expense.
3. That a loan could only be raised on onerous terms, that would involve a burden on its resources and the institution of a further vexatious control.
4. That it is not desirable that the municipality should, at first at any rate, itself undertake the management of the harbour.
5. That the only practical course is to grant a concession for the construction and exploitation of the harbour.

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They, however, insist upon two conditions :—

- (a.) That the municipality should take part in the direction and be in a position to exercise a control over the management; and
- (b.) That power be reserved to the municipality to buy out the company on reasonable terms and take over the exploitation, when it is in a position to do so.

It appears to me that there is a good deal to be said in support of the conclusions of the syndicate. It is unquestionable that it is most desirable that the harbour at Tangier should be constructed as soon as possible. It will have three rivals to contend with, viz., Casa Blanca, Larache, and Ceuta. The first will, when completed, be the port for Southern Morocco, it will also, when the railway to Fez via Knitra is completed, compete for the Fez trade: Larache, when provided with a good harbour, will draw all the Fez trade from Tangier, as the transport by rail will be considerably shorter; Ceuta, on the other hand, will compete with Tangier as a coaling station and port of call for vessels passing through the Straits. The construction of a large harbour at Casablanca will now be pushed forward with all haste, and the railway from Casablanca and Rabat to Fez will probably be completed as soon as that from Tangier: a German company is engaged on the harbour works at Larache; at Ceuta the Spanish Government is undertaking very extensive harbour works, it being intended to convert that place into an important port. Large harbour works are also to be carried out at Algeciras, which will also be, in some measure, a competitor with Tangier as a coaling station and port of call.

With all the neighbouring ports making great efforts to attract shipping and trade, it is most desirable that the harbour at Tangier should be completed as soon as possible, so as to enable it to establish itself before its rivals have already captured the trade. Once shipping has adopted a port of call it is more difficult to entice it away to a new port. It is therefore of great advantage to be the first in the field.

That the municipality has not, and is not likely for some time to have, the necessary capital to be in a position to construct the harbour itself is abundantly evident. That it would experience difficulty in raising a loan, except on onerous terms, is, I think, also undeniable, as the bulk of its revenues are already pledged for the 1904 and 1910 loans, and, though the service of these loans does not absorb the whole of its revenues, the fact of another loan having a prior claim must always, in the case of a new and small place like Tangier, exercise an adverse influence on the terms of a loan. Moreover, the municipality cannot pledge all its revenues and leave itself without the means of existence. It therefore seems established that the only course open is to grant a concession for the construction and exploitation of the harbour. The syndicate put forward other considerations of a "political and moral" nature to show that a concession should be granted. I do not think their objections under this head are as serious as stated, or that the difficulties are insuperable, though there is much to be said in favour of exploitation by a company at first. Once, however, that, for financial reasons, there is no course available but to grant a concession, it is unnecessary to enter upon a discussion of the "political and moral" pros and cons.

I entirely agree with the syndicate in regard to the conditions they insist upon as necessary in granting a concession. The company holding the concession should be absolutely under the control of the municipality in the matter of the tariff of dues to be imposed, bye-laws to be made, &c. It is also essential that power should be reserved for the municipality to buy out the company upon reasonable terms whenever it may be in a position to do so.

I had looked to the land to be reclaimed from the sea to provide a considerable proportion of the funds required for buying out the company. The syndicate, however, estimated the receipts under this head at only about 600,000*l.* I presume they have based their calculations upon the grant of building leases rather than upon sales, for I cannot help thinking that, if sold, land in that situation would realise at least 1,000,000*l.*, even making allowance for the spaces to be left for roads. The amount of land available for sale is, moreover, less than I had been led to believe, as provision has been made for building the railway terminus, as well as other public works, on the reclaimed land. I am told that about 150,000 square metres is to be set aside for the purposes of the railway. I do not know if it is proposed to make a free grant of this land to the railway company, the protocol of the Franco-Spanish Convention being silent as to the terms upon which the company should acquire the land required. It would, however, seem unreasonable that Tangier, which will, presumably, receive a

very small share of the profits from the railway, as but a few miles of the line will lie within its boundaries, should be expected to contribute an extremely valuable site for the terminus on the grounds that the company would have to pay so large a price for land elsewhere, this being the reason given by M. Porché for granting a site on the reclaimed land for the terminus.

If it is to be admitted that a concession should be granted for the construction and exploitation of the harbour, the question remains whether such concession should be put up to tender, or whether it should be granted to the Société pour le Développement de Tanger, or other company, by private arrangement.

In their letter to the French Government, copy of which was enclosed in Mr. Norton's letter to Sir Eyre Crowe of the 28th ultimo, the Société marocaine de Travaux publics urge, as a reason for the grant of the concession to themselves, that they alone have the necessary plans, &c., ready prepared. In this they are mistaken; the Public Works Department has, as I understand, all plans, &c., completed from the financial as well as from the engineering point of view; the strong technical commission appointed by the French Government to report on the Moorish ports, also prepared plans for the harbour at Tangier. In addition to these official plans, there are others drawn up by private engineers. On those grounds, therefore, I fail to see that the Société marocaine de Travaux publics has any claim to the concession: it remains to be seen whether their plan is as good as those prepared officially. Nor has the society any claim to the concession, so far as we are concerned, on the grounds that it was constituted at the instigation of the French and German Governments.

The question we have to decide, as it appears to me, is whether it is better that the concession should be given to an international company, in which British capital is represented to the extent of 20 per cent., or that the concession should be put up to tender, in which case it is known that some important British firms will compete. If put up to tender, there is the chance of a British firm obtaining the concession, but there is also the chance of a wholly French firm obtaining it, and I fear the probabilities are strongly in favour of the latter, for somehow or other in the case of works in Morocco, French firms always appear to find the means of tendering on terms no British firm would accept: how they do it, it is not necessary to enquire, the fact remains.

The French, German, and presumably the Spanish, Governments, are all willing that the concession be granted to the Société pour le Développement de Tanger, and I cannot help thinking that we may be well advised to agree, provided :—

1. That the terms are acceptable, i.e., that the municipality will receive a fair share of the profits, that the exploitation is under the control of the municipality, and that reasonable conditions are made to enable the municipality to buy out the society;
2. That the directorate of the society is international in the same proportion as the capital, and that it should not be in reality a French company, in which some foreign capital is engaged, like the State Bank and other so-called international concerns;
3. That the managing staff at Tangier be also international;
4. That the plans adopted should not necessarily be those prepared by the society, but those which may be considered best by persons competent to decide; and
5. That the works be completed within a reasonable time and be properly supervised so as to ensure their being executed in strict accordance with the terms of the contract. It is, of course, understood that all works, &c., will be put up to tender in accordance with the provisions of the Act of Algeciras.

M. Dupeyrat has informed me that the State Bank and the Tangier-Fez Railway Company are pressing for the concession. I told him that I was convinced that His Majesty's Government would never consent to the concession being granted to any company in which British capital was not adequately represented.

I do not feel myself competent to offer an opinion upon the bases for a convention proposed by the Société marocaine de Travaux publics: they will require careful consideration by experts. I would merely observe that, in my opinion, the concession should not include the land reclaimed from the sea, except in so far as required for the purposes of the port; that the plans prepared by the society should not necessarily be adopted, and that, if not adopted, I see no reason for adding to the capital the sum expended on their preparation. I should also be opposed to any guarantee by the Moorish Government, which would naturally thereby acquire certain rights at

Tangier; whether the guarantee of the municipality should be given or whether some other arrangement should be made is a question that must be carefully examined by competent persons. M. Dupeyrat is in favour of the latter alternative; it seems to me, however, that it must depend upon the terms that can be obtained in each case. In no case should any right of control over the municipality's productive departments be accepted.

I have, &c.

HERBERT E. WHITE.

Enclosure in No. 96.

Summary of Statistics and Estimates contained in the Report of the Delegates of the Syndicat international pour le Développement de Tanger.

STATISTICS of Shipping and Commerce at Tangier.

1906	..	..	3,440 vessels with tonnage of 1,630,000 entered and cleared.
1912	..	..	4,294 " " " 3,865,000 " "

(Giving in each case an average of 900 tons per vessel.)

1909	..	20,000 tons of goods imported; 20,000 tons exported; total 40,000 tons.
1910	..	20,000 " " " 25,000 " " " 45,000 "
1911	..	30,000 " " " 32,000 " " " 62,000 "
1912	..	50,000 " " " 18,000 " " " 68,000 "

1909	..	Value of imports, 466,760l.; exports, 202,040l.; total, 668,800l.
1910	..	" " 405,200l. " 252,000l. " 657,200l.
1911	..	" " 520,000l. " 366,480l. " 886,480l.
1912	..	" " 848,960l. " 200,160l. " 1,049,120l.

1909	..	Average value per ton: Imports, 23l.; exports, 10l.; combined, 16l.
1910	..	" " " 20l. " 10l. " 15l.
1911	..	" " " 17l. " 11l. " 14l.
1912	..	" " " 17l. " 11l. " 14l.

(Average number of passengers embarking and landing, 30,000 to 36,000.)

A great increase is expected in the European population.

Taking the precedent of Algiers and Tunis as a basis, it is expected that in the year 1924 the number of vessels will have increased to about 7,000 and their total tonnage to about 7,000,000, whilst the quantity of goods manipulated will amount to about 200,000 tons. It is also anticipated that a share of the coaling business of Gibraltar will be transferred to Tangier; if half this business is transferred during the next twelve years 166,750 tons of coal will be landed at Tangier in 1924.

At present the anchorage dues are very low, but the charge on loading and discharging cargo is very high. It is proposed to raise the former to 5 centimes per ton and to lower the latter to 3½ fr. per ton, i.e., about half the present rate, also to charge a landing due of 1 fr. on passengers, who have at present to pay about 2 fr. for landing in boats. Taking the 1912 statistics as a basis for calculation, the above charges would bring in a gross sum of about 20,249l. a-year, whereas, if the rate of increase expected is realised, the gross receipts in the year 1922 would amount to about 56,000l., including the expected coal business.

The plans for the proposed port provide for an area of 346 acres of water, of which 210 acres with less than 32 feet of depth. There will be 545* yards of quays with 360 acres of terreplein, of which 198 acres will be required for the port buildings and open spaces and for the railway station and other public works, leaving 148 acres available for other purposes. The selling or letting value of this land is placed at 600,000l. The port would afford accommodation for dealing with 2,500,000 tons of goods a-year. Its approximate cost is put at 11,200,000l. and the cost of upkeep at 5,600l. a-year, whilst the working expenses are reckoned at 6 per cent. of the gross receipts.

The report concludes as follows:—

"En admettant que la valeur des terrains à la construction, ou donnés en location, représente 25 fr. par mètre, l'ensemble aurait une valeur de 15,000,000, à

* ? 5450.—H. E. W.

déduire du capital nécessaire. Cette réduction atténuerait mais n'empêcherait pas le déficit d'abord inévitable.

"Comment couvrir le déficit? Les revenus immédiats ne suffisant pas, il faut recourir aux ressources ultérieures, c'est-à-dire engager l'avenir pour assurer le présent. Il semble donc nécessaire que l'exploitation du port fasse l'objet d'une concession, en échange de laquelle seraient couverts tous les frais de construction, le capital d'abord, incomplètement rémunéré, de premier établissement. Cette rémunération, insuffisante ou nulle des premières années, trouverait une compensation dans la rémunération plus large des années postérieures.

"Ainsi la concession s'impose comme le seul moyen de nous procurer le capital nécessaire.

"Elle s'impose aussi pour des raisons d'administration et de convenances locales. En effet, l'exploitation directe par la ville ou sous l'influence immédiate de la ville—dont les autorités municipales seraient elles-mêmes sous la dépendance relative d'un corps électoral—pourrait subir la répercussion de telle préoccupation momentanée ou trop exclusive de tel groupe de la population. Le port devenant alors le principal établissement de la ville, celui qui occupera par conséquent le plus d'ouvriers, d'employés ou de chefs de service, il ne convient pas d'exposer l'autorité directrice et administrative de ce port à subir le contrôle et jusqu'aux sanctions que les employés du corps municipal auraient la tentation de lui infliger à l'occasion du scrutin.

"D'ailleurs, ce port—d'intérêt commun à tout le Maroc et même mondial—doit être soustrait aux volontés susceptibles de dégénérer en caprices ou qui se détermineraient trop passionnément, par des raisons de l'heure ou du lieu. C'est pourquoi la concession, que les circonstances économiques imposent, est également recommandée par les circonstances politiques et morales.

"Toutefois, deux réserves capitales devront être préalablement posées.

"Il est d'abord indispensable que l'autorité municipale soit associée dans la direction des services publics et dans leur exploitation. Cette association devra même leur assurer la prépondérance en ce qui concerne la direction afin que le vice radical de l'administration actuelle du Contrôle de la Dette ne soit pas perpétué. Ce vice est dans la préoccupation rigoureusement fiscale de ladite administration, dans la préoccupation du 'meilleur rendement immédiat,' suivant les termes si fâcheux de l'accord financier du 10 mars, 1910. Le port n'étant pas seulement, ou même principalement, un instrument de recettes et sa destination étant surtout la vie, le mouvement, le progrès qu'il procurera, Tanger ne saurait admettre de le transformer en machine d'exploitation maladroite et intensive, sans protester de toute l'énergie de son droit et de ses intérêts méconnus. Une concession, qui accorderait à la société concessionnaire l'établissement et le maniement des tarifs, l'interprétation sans recours des règlements, et les moyens de les aggraver—par la manière de les appliquer—telle concession serait inadmissible.

"Cette réserve est la première: ce n'est pas la seule. En raison du développement possible de son crédit et suivant les garanties que la définition de ses pouvoirs, ainsi que l'exercice de ces pouvoirs, pourraient ultérieurement donner aux Puissances et à nous-mêmes, Tanger doit avoir la faculté de racheter son port. Dans quelles conditions? Dans quel délai? Ce sont des détails sur lesquels nous ne sommes pas en état d'insister, non plus que sur la mesure de notre participation à la direction des services et l'application du règlement. Il nous suffit, mais il nous est absolument nécessaire, que le principe de cette participation, comme celui de ce rachat, soient expressément posés.

"Sur le seuil d'une autonomie sans exemple dans l'histoire, dont les limitations d'ordre politique et notre inexpérience probable nous impose le devoir, loyalement accepté, en même temps que l'obligation, certainement imposée, d'admettre certaines limitations et une dépendance inévitables, d'ordre économique et financier, nous acceptons sans hésiter, nous demandons même avec insistance, qu'on nous décharge du risque, de l'incertitude et même du danger d'une entreprise à laquelle nous savons que nos forces et nos moyens actuels—confus et mal exercés—ne suffiraient pas. Nous demandons qu'on ne nous attende pas à l'œuvre; certes notre intelligence et le souci de nos responsabilités nous font bien augurer de cette œuvre; mais ce serait trop long; on nous soumettrait à un temps d'épreuve qui serait un temps perdu.

"Or, l'avance de quelques années dans l'établissement et l'aménagement de notre outil de prospérité matérielle et d'éducation morale, cette avance compensera largement l'inconvénient momentané d'une concession—inconvénient qui nous coûterait d'ailleurs moins cher que l'inconvénient pire d'un emprunt, impliquant des garanties onéreuses et un contrôle vexatoire.

"A la condition seulement—et nous l'exprimons avec confiance—que tout l'avenir nous soit réservé, ainsi qu'une partie du présent. . . . La réserve partielle du présent est dans notre association au droit de direction et au bénéfice d'exploitation. Celle plus complète de l'avenir sera dans la facilité du rachat."

[20137]

No. 97.

Sir Edward Grey to Sir M. de Bunsen.

(No. 12.)
(Telegraphic.)

Foreign Office, May 5, 1913.

YOUR despatch No. 82 of 28th April: Consular jurisdiction in Tangier.

I entirely approve your action.

Spanish Ambassador stated on 2nd May that French and Spanish delegates had agreed that president of Municipal Tribunal and one judge should be permanently French, vice-president to be British, and to act for president and "avocat du Gouvernement" during absence. Two judges and "avocat" to be Spanish. Two remaining judges to be taken from subjects of other treaty Powers.

French agree to retention of consular jurisdiction for criminal cases, except infractions of municipal laws, &c.

Spanish Government ask that Mr. White may be instructed to accept this settlement.

I am strongly opposed to any retention of consular jurisdiction. Objections advanced against it by Mr. White and your Excellency are very weighty, and ensuing complication in the administrative machinery of Tangier would be unfortunate. Both Mr. White and your Excellency should therefore continue to press very strongly for its abolition.

I do not know reason for this complete change of view on part of French delegate, but if our representations prove unsuccessful it may be necessary to accept consular jurisdiction for all treaty Powers to save a breakdown of negotiations.

Please telegraph any observations your Excellency or Mr. White have to offer.

[20635]

No. 98.

Sir Edward Grey to Sir M. de Bunsen.

(No. 14.)
(Telegraphic.)

Foreign Office, May 6, 1913.

YOUR despatch No. 83 of 1st May: Tangier.

So long as functions of Khalifa are restricted simply to those exercised by him as a member of the Committee of Control on the same footing as all other members, I feel that it would be difficult to contest that his appointment and dismissal are not matters for his own Government to determine. You were quite right to protest against claim to predominant position of France and Spain, and the protest would apply also to pre-eminent position.

[21039]

No. 99.

Sir M. de Bunsen to Sir Edward Grey.—(Received May 7.)

(No. 14.)
(Telegraphic.)

Madrid, May 6, 1913.

YOUR telegram No. 12 of 5th May: Tangier consular jurisdiction.

French delegate denies that he has changed his attitude on the subject of consular jurisdiction, which he still wishes to see entirely abolished at Tangier. All he did was to intimate to Under-Secretary of State in a private conversation that in the event of Spain refusing absolutely to give way, he would be willing to act as intermediary and to endeavour to secure acceptance of compromise mentioned in your telegram, with the addition, however, of some further Spanish concessions to the powers of the International Tribunal.

Meanwhile he had made it quite clear to Mixed Commission that he gives his unqualified support to his British colleague in demanding total abolition of consular jurisdiction.

I still think it unfortunate that French delegate should have allowed Spanish Government to see possible way out of the difficulty.

I have again pressed our view of the question on the Minister for Foreign Affairs.

[21159]

No. 100.

Sir M. de Bunsen to Sir Edward Grey.—(Received May 8.)

(No. 86.)

Madrid, May 5, 1913.

Sir,

I HAVE the honour to forward herewith a memorandum by Mr. White, transmitting *procès-verbaux* of the meeting held by the Mixed Tangier Commission and the Judicial Commission, both separately and jointly, to devise a judicial system for Tangier.

A draft organic law is being drawn up by Mr. Brunyate, and will be forwarded to you directly by that gentleman.

As regards the question of the retention by Spain of a portion of her penal consular jurisdiction, I agree with Mr. White that in the event of failure to induce the Spanish delegate to accept total abolition, the best course will be to procure, if possible, some further limitation of the matters to be left to the jurisdiction of the Spanish Consular Courts.

On the question of the nationality and mode of appointment of the judges, I concur with the views expressed by Mr. White.

I enclose also Mr. White's despatch of the 3rd May, replying to your enquiries regarding the drafting of the necessary codes.

I have, &c.

MAURICE DE BUNSEN.

Enclosure 1 in No. 100.

Memorandum by Mr. White.

I TRANSMIT herewith a complete set of the *procès-verbaux*,* with their annexes, of the twenty meetings held by the three judicial advisers, together with a "résumé méthodique" summarising the results arrived at. I also transmit the *procès-verbaux* of the 27th and 28th meetings of the Mixed Commission, at which the propositions of the judicial advisers were examined, as well as those of the 29th, 30th, and 31st meetings, which were attended also by the judicial advisers. At these meetings the points on which a divergence of views existed were discussed, and decisions were arrived at in regard to all of them except—

1. The extent of the criminal jurisdiction of the International Tribunal as regards foreigners;
2. The mode of appointment and the nationality of the judges and of the "avocat du Gouvernement"; and
3. The extent to which the codes, &c., to be drawn up can be modified in the future, and to whom the power of modification should be entrusted.

Mr. Brunyate undertook to draft an organic law embodying all the decisions arrived at, for submission to M. Berge and M. Comulada and to the Mixed Commission. He will transmit his draft direct to the Foreign Office, where it will probably be received before this memorandum, which has been delayed owing to the time that has been required to have all the *procès-verbaux* and their annexes copied. It is, therefore, unnecessary that I should here enter into an analysis of the proposed judicial organisation.

I have already, in my memorandum of the 27th ultimo, explained the position as regards the criminal jurisdiction of the International Tribunal. Both M. Dupeyrat and myself are strongly of opinion that the Consular Courts should be abolished and jurisdiction in all matters, and over all persons in the Tangier zone, be transferred to

* Not printed.

the International Tribunal, and in this opinion both Mr. Brunyate and M. Berge concur; but, unfortunately, the Spanish Government appear to be averse to accepting this proposal. If it should prove impossible to procure their consent to the abolition of their Consular Court for the present, M. Dupeyrat and I will, at any rate, endeavour to induce M. Padilla to enlarge the list of matters in which the International Tribunal should have jurisdiction.

The question of the nationality of the judges and "avocat du Gouvernement" is, in my opinion and that of M. Dupeyrat, intimately connected with that of the criminal jurisdiction of the International Tribunal, and we are making use of that question in treating that of jurisdiction. Spain is extremely anxious to secure the post of "avocat du Gouvernement" for a Spaniard, her reason being, as M. Hontoria incautiously told M. Dupeyrat, that, whilst she will retain jurisdiction over Spaniards in complaints brought against them by persons of other nationalities, if a Spaniard has the post of "avocat du Gouvernement" he will have the control of criminal prosecutions, and will be able to attend to the interests of his nationals when they are the complainants and persons of other nationality the defendants. This appears a very one-sided arrangement, and neither M. Dupeyrat nor I am disposed to fall in with it. We propose to offer M. Padilla to allot to Spain two seats on the judicial bench and the post of "avocat du Gouvernement" if she will surrender her criminal jurisdiction, but otherwise we can only consent to her appointing two judges. It is, unfortunately, necessary to adopt this system of hard bargaining, as that is the spirit in which the Spanish Government have approached the matter, demanding, at first, the post of "avocat du Gouvernement" and four judges, when it was contemplated that there should be six judges besides the president.

As to the mode of appointing the judges, it has now been decided that they should be selected by their respective Governments and appointed by the Sultan. M. Dupeyrat and M. Berge, as well as their judicial advisers, strongly urged this system. Mr. Brunyate was opposed to it, desiring that the selection be made by the Committee of Control, on the grounds that the system of appointment by the Governments has been found very unsatisfactory in Egypt. I have, however, given way on this point, as will have been seen from the *procès-verbal* of the 32nd meeting, copy of which accompanied my memorandum of the 30th ultimo. Mr. Brunyate, before leaving, agreed with me that I should concede this point if necessary, and His Majesty's Ambassador informed me that he has always experienced difficulties in the cases of the appointment of Spanish judges for Egypt, the Spanish Government objecting that we have not been able to enforce the system in the case of the Great Powers. Moreover, the Egyptian Government send Sir M. McIlwraith to the various countries to make the selection, and the municipality would probably find it difficult to adopt that course. Should there happen to be anyone of the required nationality at Tangier especially fit for the post, his appointment could probably be secured through the representative of his country, and there is little hope, for some time at any rate, of the question of nationality being ignored in the appointment of the judges.

With regard to future modifications of the codes, &c., it is probable that a compromise will be arrived at by stipulating that they can be modified by the Municipal Assembly, if the proposed modification is approved by the majority of the bench and by a two-thirds majority of the Committee of Control.

H. E. W.

Madrid, May 3, 1913.

Enclosure 2 in No. 100.

Résumé of the Resolutions adopted during the Meetings of the Judicial Commission.

LA Commission a pris pour base de ses délibérations la note préparée par M. Berge, en se référant en quelques-unes, pour des indications complémentaires, à l'avant-projet qu'il a également préparé.

Elle n'a pu suivre dans ses délibérations ni l'ordre des matières adoptées dans la note de l'avant-projet, ni celui qui serait naturellement adopté dans un projet définitif, à raison de la connexité des matières; elle a donc décidé, à sa 17^e séance, la préparation d'un résumé général de ses travaux. Dans ce résumé sont à incorporer quelques décisions qui n'ont pas été consignées aux *procès-verbaux*.

Composition du Tribunal.

1. La Commission est d'avis que le tribunal doit se composer d'un président et de cinq juges au minimum (*procès-verbal* de la 2^e séance, où est mentionnée quelque hésitation de la part de M. Comulada).

Ce minimum est fixé par rapport à l'organisation du tribunal; toute atteinte au principe du juge unique en première instance impliquerait notamment une augmentation.

Toute augmentation éventuelle de personnel à raison de l'augmentation du travail judiciaire, doit être décidée par la Commission de Contrôle sur la proposition du tribunal (pas mentionné aux *procès-verbaux*).

2. Il faut en outre un avocat du Gouvernement remplissant les fonctions d'un procureur général (*procès-verbal* de la 3^e séance). MM. Berge et Comulada avaient préconisé pour ce fonctionnaire la situation d'un magistrat.

Mr. Brunyate, dans une note annexée au *procès-verbal* de la 18^e séance, propose, pour des raisons d'économie et autres, de cumuler ces fonctions avec celles de chef du contentieux de la municipalité, combinaison qui serait incompatible avec la situation de magistrat. M. Comulada se rallie à cette proposition tandis que M. Berge, tout en n'y trouvant rien d'incompatible avec la nature des fonctions du procureur général, est d'avis que la question échappe à la compétence de la Commission (*procès-verbal* de la 18^e séance).

3. Sauf certaines réserves de la part de M. Berge, la Commission estime (*procès-verbal* de la 4^e séance). Qu'au moment actuel il n'y a pas lieu de nommer des juges indigènes. Même si cette manière de voir n'est pas acceptée, aucun juge étranger ne peut être économisé (pas mentionné aux *procès-verbaux*).

4. La Commission est d'avis de laisser au président la plus large mesure de responsabilité possible pour le fonctionnement du tribunal et de ses services auxiliaires (voir, sur ce dernier point, *procès-verbal* de la 11^e séance).

5. Les juges devront prendre rang suivant la date de leur nomination ou, en cas de date identique, suivant leur âge. Le juge le plus ancien doit remplacer le président en cas d'absence ou d'empêchement (*procès-verbal* de la 18^e séance).

6. Les propositions de la Commission relatives aux traitements et congés du président, des juges et de l'avocat du Gouvernement se trouvent au *procès-verbal* de la 13^e séance; celles relatives à leur inamovibilité, discipline et droits à la retraite au *procès-verbal* de la 12^e séance.

7. La majorité de la Commission est d'avis qu'aucun compte ne doit être tenu de la nationalité des juges par rapport à celle des plaideurs (*procès-verbal* de la 5^e séance).

8. La question de l'attribution des sièges par nationalité a été l'objet d'une déclaration de la part de Mr. Brunyate à la 11^e séance du *procès-verbal*.

Elle a été plus tard approfondie à la 16^e séance et a donné lieu à une forte divergence de vues. Les membres de la Commission ont consigné au *procès-verbal* leurs manières de voir respectives.

A noter aussi dans cette question une suggestion de la part de Mr. Brunyate à la 2^e séance sur l'attribution du poste d'avocat du Gouvernement.

Personnel.

9. Le tribunal doit être complété par un certain nombre d'auxiliaires, et interprètes, et ce personnel se trouve discuté aux *procès-verbaux* des 11^e, 12^e, 13^e et 14^e séances.

Les décisions les plus importantes prises à cet égard par la Commission sont les suivantes:

10. Absence de toute mention d'huissiers, leur besogne étant accomplie, dans l'intention de la Commission, par les employés du greffe.

11. Système disciplinaire (*procès-verbal* de la 11^e séance) à accorder avec tout système adopté pour le personnel des autres services municipaux.

12. Traitements fixés (*procès-verbal* de la 13^e séance) à l'exclusion de toute rémunération basée sur les actes judiciaires instrumentées. Nomination du personnel par l'assemblée générale du tribunal ou par le président (*procès-verbal* de la 13^e séance). Création de nouveaux postes décidée par l'assemblée générale, sous réserve de l'approbation de la Commission de Contrôle (*procès-verbal* de la 13^e séance).

[1613]

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Questions d'ordre intérieur, Avocats, &c.

13. La Commission propose de laisser à l'assemblée générale du tribunal le soin d'élaborer un règlement intérieur, dans les limites tracées par la loi organique et sous réserve de l'approbation de la Commission de Contrôle (pas mentionné aux procès-verbaux).

14. Dans l'esprit de la Commission, la plus grande liberté doit être laissée à l'assemblée générale et, en tant que de besoin, au président, pour tout ce qui concerne la délégation des juges et la fixation d'audiences tant ordinaires que supplémentaires à fin d'assurer que les affaires soient vidées d'une manière expéditive (pas mentionné aux procès-verbaux).

15. Les propositions de la Commission relatives à la représentation des parties et à l'admission et la discipline des avocats se trouvent au procès-verbal de la 15^e séance.

16. La question des langues judiciaires est laissée à être réglée de la même façon que celle des langues officielles de la municipalité (procès-verbal de la 13^e séance).

Pour ce qui concerne le costume officiel des magistrats voir procès-verbal de la 12^e séance.

Pour ce qui concerne les annonces judiciaires, voir procès-verbal de la 15^e séance.

Compétence ratione materiae.

La Commission a discuté la compétence du tribunal par rapport aux diverses matières auxquelles cette compétence pourrait s'étendre.

En matière civile.—La Commission s'est prononcée, sous certaines réserves de la part de M. Comulada, en faveur d'une compétence générale en matière civile et commerciale à l'égard des indigènes aussi bien que des étrangers (procès-verbal de la 2^e séance).

Elle permettrait cependant la référence de tout litige entre étrangers d'une même nationalité (à l'exception de litiges en matière foncière) au consul dont ils relèvent siégeant comme arbitre (ou plutôt comme amiable compositeur) à condition que la référence soit faite avant tout débat au fond devant le tribunal international, et que la sentence arbitrale soit revêtue de l'exéquateur du tribunal international pour devenir exécutoire (voir la réponse à cette matière dans les observations de M. Comulada au procès-verbal de la 2^e séance).

M. Berge est d'avis d'admettre le même principe en ce qui concerne les indigènes en leur permettant de porter leur différends devant le cadi. Les autres membres de la Commission trouvent impossible de soumettre les jugements du cadi à l'homologation du tribunal international et le défaut de cette homologation provoquerait des difficultés graves en ce qui concerne l'exécution. Pour ces raisons ils ne peuvent pas se rallier à la proposition de leur collègue (procès-verbal de la 17^e séance).

La Commission approuve la déclaration de Mr. Brunyate au procès-verbal de la 2^e séance relative à la nécessité de reconnaître par une disposition expresse insérée au Code civil l'application par le tribunal international des lois étrangères dans les affaires qui, suivant les principes de droit privé international, seraient réglées par ces lois.

22. *En Matière foncière.*—La Commission approuve, en principe, une compétence générale exclusive du tribunal international en matière foncière (procès-verbal de la 2^e séance).

M. Berge, tout en envisageant cette solution comme le but à atteindre, déclare dans les explications fournies à la suite d'une note jointe au procès-verbal de la 16^e séance, qu'il serait plus sage d'admettre la compétence du cadi pour les procès purement indigènes aussi longtemps que l'immeuble en litige n'aurait pas été immatriculé. Les autres membres de la Commission ne peuvent se rallier à cette manière de voir (procès-verbal de la 17^e séance).

23. *En Matière administrative.*—La Commission ne fait pas de distinction entre les matières civiles et les matières administratives (procès-verbal de la 4^e séance). Les affaires administratives seront donc portées devant le tribunal international sur le même pied que les affaires civiles.

La Commission est cependant d'avis de protéger les autorités administratives de toute entrave injustifiée pouvant résulter de l'action judiciaire, et cela par une disposition semblable à celles appliquées en Tunisie et en Égypte (procès-verbal de la 7^e séance).

24. *En Matière de Statut personnel.*—La Commission est d'avis de laisser aux autorités religieuses toute question de statut personnel intéressant des indigènes musulmans ou israélites et, sauf quelques réserves de la part de M. Berge, de laisser aux autorités consulaires toute question semblable intéressant des étrangers (procès-verbal de la 1^{re} séance).

Elle est cependant d'avis d'accorder pleine compétence au tribunal international pour trancher toute question préjudicielle, même portant sur le statut personnel, soulevé au cours d'une affaire dont il est valablement saisi, mais exclusivement aux fins de ce procès; ainsi que pour trancher toute question de statut personnel qui n'est de la compétence d'aucune autre juridiction. En vue de l'application de ces mesures exceptionnelles, Mr. Brunyate a préparé une note sur certaines questions de statut personnel, qui est jointe au procès-verbal de la 7^e séance, et qui est approuvée en principe par les autres membres de la Commission (voir ladite note, ainsi que le procès-verbal de la 1^{re} séance du procès-verbal de la 7^e séance).

25. *En Matière répressive.*—La compétence du tribunal international en matière répressive fait l'objet de la dernière partie du procès-verbal de la 16^e séance, M. Berge s'est déclaré nettement en faveur de sa compétence exclusive. M. Comulada a voulu garder la compétence en matière répressive des tribunaux consulaires espagnols, tandis que Mr. Brunyate, tout en penchant vers la solution de M. Berge, était prêt à examiner des solutions transactionnelles. Voir aussi, sur ce chef, quelques observations à la fin du procès-verbal de la 9^e séance faisant suite à la discussion de l'organisation de la justice répressive.

26. La Commission a approuvé les observations de Mr. Brunyate (procès-verbal de la 2^e séance) sur la nécessité de prévoir une compétence à l'égard des étrangers, assez étendue pour assurer la répression efficace des infractions aux règlements municipaux (pas mentionné aux procès-verbaux).

27. *Compétence ratione personae.*—Sous cette rubrique, la Commission est d'avis de rendre justiciable devant le tribunal international la municipalité et les autres administrations tangéroises, ainsi que la Banque d'État, la Commission de la Dette publique et toute autre administration marocaine, mais pour ces dernières, exclusivement en ce qui concerne les relations avec Tanger (procès-verbal de la 7^e séance).

Organisation de la Justice en matière civile.

L'organisation de la justice en matière civile a occupé l'attention de la Commission à ses 4^e, 5^e, 6^e et 7^e séances.

28. La Commission est d'avis de faire juger les affaires dont la valeur ne dépasse pas un chiffre fixé provisoirement à 250 pesetas hassani par un juge unique, dont la décision serait définitive, sauf le droit d'interjeter appel avec l'autorisation de l'avocat du Gouvernement dans le cas où le procès, nonobstant son peu de valeur pécuniaire, soulèverait une question importante de principe (procès-verbal de la 4^e séance).

Ce même juge aurait qualité pour ordonner, à charge d'appel, toute mesure conservatoire dans tout procès, indépendamment de sa valeur (procès-verbal de la 4^e séance).

Les procès d'une valeur plus élevée ou d'une valeur indéterminée seraient jugés en première instance par un juge unique (procès-verbal de la 4^e séance), qui pourrait s'adjoindre deux assesseurs avec voix consultative, soit d'office, soit sur la demande des parties (même procès-verbal). M. Berge, cependant, ferait obligatoire l'assistance des assesseurs dans les affaires purement indigènes).

Les appels contre les jugements rendus dans les affaires ci-dessus seront portés devant une chambre composée de trois juges, assistés de droit de deux assesseurs avec voix consultative dans les affaires purement indigènes (procès-verbal de la 5^e séance), et peuvent s'adjoindre des assesseurs avec voix consultative dans les autres cas (pas mentionné aux procès-verbaux).

Le même système est à suivre en matière foncière (procès-verbal de la 18^e séance).

La Commission estime qu'il n'y a pas lieu d'instituer un recours en cassation en matière civile (procès-verbal de la 5^e séance).

Elle admettrait cependant un recours en révision dans tous les cas (procès-verbal de la 5^e séance); de plus, elle préconise une faculté de renvoyer tout appel, qui soulèverait une question d'interprétation des lois et règlements organiques, devant le tribunal réuni en assemblée générale publique au lieu de la faire juger par la chambre de trois magistrats (procès-verbal de la 7^e séance).

29. L'emploi d'assesseurs étant préconisé tant en matière civile qu'en matière répressive, il conviendrait ici d'attirer l'attention de la Commission générale sur les dispositions y relatives.

La question des assesseurs, la manière de les choisir, leurs attributions et la question de récusation occupent tout le procès-verbal de la 10^e séance.

Suivant l'avis de la Commission, les deux assesseurs doivent être indigènes en toute affaire purement indigène; l'un d'eux doit être indigène lorsqu'un indigène est en cause; ils doivent être tous les deux étrangers dans les affaires où aucun indigène n'est en cause. (Ce principe est appliqué d'une façon incomplète en plusieurs des procès-verbaux.)

30. *Organisation en matière répressive.*—Les propositions de la Commission relatives à l'organisation du tribunal en matière répressive se trouvent dans les procès-verbal des 8^e et 9^e séances qui y ont été exclusivement consacrées.

L'organisation préconisée suit à certains points de vue celle déjà exposée en matière civile. Les trois juridictions—celle du juge unique siégeant seul, celle du juge siégeant avec deux assesseurs ayant voix consultative et celle d'une chambre composée de trois juges avec deux assesseurs ayant voix délibérative—se produisent. Mais, par analogie avec les cours d'assises des pays européens, les affaires les plus graves sont portées directement (après instruction par un juge d'instruction) devant la chambre précitée, qui statue définitivement sous réserve d'un droit de recours en cassation devant le tribunal réuni en assemblée générale publique.

Dans ces derniers cas l'instruction préliminaire remplace, pour ainsi dire, un degré de juridiction. Pour cette raison, toute affaire, même de la compétence naturelle du juge siégeant avec assesseurs, qui est assez compliquée pour justifier une instruction préliminaire par le juge, est mise en jugement devant la chambre précitée, à l'instar des infractions graves. La Commission a trouvé utile d'examiner si, par contre, les infractions de la compétence naturelle des cours d'assises ne pouvaient être portées facultativement sans inconvénient devant le juge siégeant avec assesseurs, à condition qu'elles fussent assez simples pour ne pas exiger une instruction préliminaire. A son avis, un tel système ne doit être en aucun cas applicable à des infractions pour lesquelles la loi prévoit les peines de la mort ou de travaux forcés à perpétuité. Pour les autres infractions la Commission approuve ce système, sous réserve que la juridiction inférieure ne doit pas prononcer de peines dépassant celles de sa compétence naturelle et que, soit d'office, soit sur la demande de la partie civile ou de la réquisition de l'avocat du Gouvernement, elle doit décliner la compétence, si elle estime que les peines qu'elle peut prononcer seraient insuffisantes. Ainsi posé, le système n'est que la consécration législative de la "Correctionnalisation" d'infractions, qui s'est si bien établie en pays européens depuis quelque temps. Il comporte, bien entendu, une modification des minima de peines, ce qui est une des caractéristiques du Code pénal tunisien, pleinement justifiée par les mœurs différentes d'une population africaine. Les peines maxima à prononcer par le juge siégeant avec assesseurs sont fixées à l'emprisonnement de trois ans et l'amende sans limite de valeur. Quant au juge siégeant seul et au juge siégeant avec assesseurs, leurs juridictions respectives correspondent plus ou moins exactement à celles du juge de paix et du Tribunal correctionnel. La Commission est cependant d'avis de porter le maximum des peines de la compétence du juge siégeant seul à un mois d'emprisonnement et 50 pesetas hassani d'amende, et de lui conférer une compétence concurrente pour certaines infractions de la compétence naturelle du juge siégeant avec assesseurs, à l'instar du système déjà préconisé, en ce qui concerne les infractions de la compétence du Tribunal criminel. Outre les garanties déjà indiquées, il accorde à l'inculpé le droit de demander, toutes les fois qu'il s'agit de l'exercice de la juridiction concurrente, d'être renvoyé devant le juge siégeant avec assesseurs.

Les propositions de la Commission, en ce qui concerne les appels contre les jugements rendus par le juge unique siégeant seul ou avec assesseurs, sont suffisamment exposés aux procès-verbaux.

31. A la question de l'organisation en matière répressive, se rattache celle de l'exercice du droit de grâce. La Commission reconnaissant la nécessité d'une réglementation de cette matière, propose de conférer le droit de grâce à une Commission composée de deux membres de la Commission de Contrôle et de deux magistrats, toute décision accordant la grâce devant réunir trois voix au moins (procès-verbal de la 9^e séance).

32. La Commission indique au procès-verbal de la 15^e séance les codes et les lois complémentaires dont, au point de vue judiciaire, l'élaboration immédiate s'impose. Cette tâche semble ne pas rentrer dans les limites de la mission des délégués; mais ils seraient disposés à préparer les projets nécessaires, s'ils en étaient chargés. Ils ne croient pas qu'il y aurait de difficultés pour la distribution du travail.

Ils sont déjà à même d'indiquer certains principes qui, à leur avis, doivent être incorporés aux codes et dont quelques-uns pourraient être utilement consacrés par des dispositions insérées dans la loi organique du tribunal. Ces principes sont résumés ci-après par rapport aux divers codes.

Code civil.—Le droit foncier et le statut personnel étant réservés pour des lois spéciales, le Code Civil se réduirait en fait à un code des contrats et des obligations, à l'instar de ce qui a lieu en Tunisie.

Le Code tunisien ayant été élaboré, semble-t-il, d'accord avec des juristes musulmans, servirait très bien comme base du travail.

Le Code mixte égyptien, qui, avec les autres Codes mixtes égyptiens, a été proposé comme un précédent utile, est assez défectueux à maints points de vue et il est, du reste, aujourd'hui suranné (pas mentionné aux procès-verbaux).

33. *Code commercial.*—La Commission est d'avis d'appliquer une procédure uniforme de distribution à l'actif des commerçants tombés en faillite et à celui des non commerçants en déconfiture. Elle accorderait aux créanciers le droit de nommer, sous réserve de l'approbation du tribunal, un liquidateur de leur choix, à défaut de quoi la liquidation devra être faite par des agents salariés du tribunal sous le contrôle du juge (procès-verbal de la 15^e séance).

35. *Code de Procédure civile et commerciale.*—La Commission voudrait, avant tout, s'écarter du principe de la passivité judiciaire. Le juge saisi d'une affaire devrait avoir le devoir de procéder à toute mesure d'instruction utile pour établir la vérité, même lorsque cela n'est pas requis par les parties. Les actes de procédure devraient être faits par les employés du greffe sur la demande des parties et sous la direction et la surveillance du juge, sans l'intervention d'officiers ministériels (procès-verbal de la 15^e séance).

L'exécution des jugements se fera dans les mêmes conditions. La Commission trouve dans la procédure "par défaut" une arme mise à la disposition des débiteurs. La Commission est d'avis de ne pas admettre le défaut d'un défendeur touché par une citation, de charger le juge de prendre toutes les mesures possibles pour que le défendeur soit touché, et, quand ce but n'a pas été atteint, de permettre des mesures conservatoires à son égard. Elle admettrait la citation par voie de la poste, par voie administrative ou par l'entremise des agents du greffe (procès-verbal de la 19^e séance).

La question des mesures conservatoires en général se trouve mentionnée au procès-verbal de la 4^e séance, celle de l'exécution provisoire des jugements d'appel au même procès-verbal.

Ce code devra contenir des règles pour les dépôts et consignations (procès-verbal de la 14^e séance).

36. *Code d'Instruction criminelle.*—Personne ne doit être condamné sans être mis à se défendre (procès-verbal de la 19^e séance).

Personne ne doit être arrêté ni détenu si ce n'est en vertu d'un mandat de justice ou en cas de flagrant délit. Dans ce dernier cas, l'inculpé doit être immédiatement mis à la disposition de la justice (même procès-verbal).

Toute affaire mise en jugement devant le tribunal criminel doit être préalablement instruite par un juge agissant comme juge d'instruction, l'avocat du Gouvernement entendu.

La Commission est favorable à une large extension de la citation directe. Tout plaignant doit avoir le droit de s'adresser directement au juge pour les infractions de la moindre importance, et, pour les autres, au juge d'instruction ou à l'avocat du Gouvernement (voir sur ce chef la note de Mr. Brunyate sur l'avocat du Gouvernement).

Pour empêcher l'emploi de l'appel comme un moyen dilatoire, la Commission est d'avis que toute condamnation à l'emprisonnement doit être immédiatement exécutoire, à moins que le condamné ne dépose un cautionnement fixé par le juge (procès-verbal de la 8^e séance).

La Commission prévoit la nécessité d'un système de quasi-extradition entre les trois zones (procès-verbal de la 16^e séance).

37. *Code foncier.*—La Commission propose comme base du droit foncier le Code

foncier tunisien. Dans ce code on doit tenir compte des usages locaux bien établis (procès-verbal de la 2^e séance).

M. Berge a soumis une note sur la matière qui est jointe au 16^e procès-verbal.

La Commission approuve en principe le système préconisé par M. Berge, y compris le système d'immatriculation. Mais tandis que M. Berge est d'avis de laisser l'immatriculation facultative, ses collègues sont d'avis de la rendre obligatoire à la charge du notaire, dès la première mutation de propriété par l'accord des parties (procès-verbal de la 18^e séance).

38. *Loi sur l'Expropriation publique.*—L'institution de la municipalité et du tribunal international comportent forcément la modification des règles en matière d'expropriation déjà élaborées en exécution de l'Acte d'Algésiras (pas mentionné au procès-verbal).

39. *Loi sur le Notariat.*—Cette loi devra laisser debout les fonctions notariales des consuls.

40. *Tarif des Frais de Justice.*—(Voir procès-verbal de la 19^e séance.)

41. *Loi sur le Service pénitentiaire.*—Cette loi a un côté administratif qui échappe à la compétence de la Commission.

42. *Loi sur l'Etat civil et le Statut personnel.*—(Voir en ce qui concerne le statut personnel la note de Brunyate.)

La Commission voudrait, en conclusion, attirer l'attention de la Commission générale sur la grande utilité qui résulterait d'une uniformité aussi étendue que possible entre le droit substantif (réel) des trois zones. C'est bien entendu une question plutôt pour les Gouvernements espagnols et français; mais si ces Gouvernements arrivaient à une certaine mesure d'uniformité, il serait probablement désirable d'en tenir compte à Tanger.

43. *Pouvoir législatif.*—La Commission a eu à examiner la question des modifications éventuelles à apporter à la législation ci-dessus. Sur cette matière les trois délégués n'étaient pas d'accord; ils reconnaissent du reste que la matière est d'une application tellement générale qu'elle échappe à leur compétence. Ils ont, cependant, consigné au procès-verbal de la 16^e séance leurs manières de voir respectives pour les mettre à la disposition de la Commission générale en tant qu'elle puissent lui être utiles.

Enclosure 3 in No. 100.

Procès-verbal of Twenty-seventh Meeting of Tangier Mixed Commission, held April 22, 1913.

LA Commission mixte d'internationalisation de Tanger s'est réunie au Palais du Ministère d'Etat, le mardi, 22 avril, 1913, à 4 heures et demie.

Le procès-verbal de la précédente séance est adopté.

La Commission confirme dans son ensemble la proposition No. 1 des juriconsultes, mais réserve jusqu'après complément d'information la fixation à cinq ou à six du nombre des juges.

Elle adopte la proposition de Mr. Brunyate relative à la création d'un emploi d'avocat du Gouvernement et aux attributions de celui-ci.

Il est institué un avocat du Gouvernement qui est chargé :

1. D'exercer l'action publique pour la répression des infractions de toute nature, soit en saisissant d'une poursuite la juridiction compétente, soit en lui présentant des réquisitions au cours de poursuites intentées par une partie civile, soit en introduisant contre les décisions qui en sont susceptibles les recours prévus par la loi;

2. De représenter en justice les administrations publiques tangéroises et de faire en leur nom tous actes utiles de procédure;

3. De prendre toutes les conclusions nécessaires pour la protection des incapables et des mineurs;

4. De saisir, s'il y a lieu, la juridiction disciplinaire établie pour le personnel judiciaire;

5. De diriger la police judiciaire.

L'avocat du Gouvernement ne fait pas partie du tribunal international et ne prend pas part à aucune de ses délibérations; mais il doit être admis à ses audiences ou

à ses assemblées générales, s'il désire y requérir en personne, à moins qu'il ne préfère faire parvenir ses conclusions ou réquisitions par écrit.

Proposition No. 3: Réservée.

Proposition No. 4: Confirmée.

Le président est le chef de la compagnie. Il est responsable de la marche de tous les services du tribunal et donne les ordres nécessaires pour assurer l'exécution du Règlement intérieur.

Il réunit l'assemblée générale du tribunal quand il le juge nécessaire et a seul qualité pour correspondre, au nom du tribunal, avec les autres autorités.

Il a le droit d'autoriser les membres du tribunal à s'absenter pour raisons de famille, ou affaires urgentes ou motifs exceptionnels, étant entendu que l'absence ne pourra dépasser un mois et qu'une retenue de la moitié du traitement sera faite pour toute période d'absence dépassant, au cours d'une même année, la durée des vacances, soit deux mois et demi.

Proposition No. 5: Confirmée.

Les juges prennent rang suivant la date de leur nomination ou, en cas d'égalité dans l'ancienneté de grade, suivant leur âge. Le juge doyen remplace le président en cas d'absence ou d'empêchement.

Proposition No. 6: Le traitement de début de juge est fixé à 20,000 fr. par an avec augmentation de 1,000 fr. tous les deux ans, jusqu'à concurrence de 25,000 fr.

Le président et l'avocat du Gouvernement recevront 30,000 fr. par an.

Les vacances judiciaires dureront deux mois et demie du 15 juillet au 1^{er} octobre et ne donneront lieu à aucune retenue de traitement. Le président aura toutefois pouvoir de prendre les mesures nécessaires pour assurer l'expédition de toutes les affaires inscrites au rôle et en état d'être jugées avant clôture de l'année judiciaire.

Un service de vacation sera organisé pour l'expédition des affaires urgentes.

Les magistrats seront inamovibles afin que leur indépendance soit assurée.

Ils ne pourront être révoqués que par décision du Conseil de Discipline réuni sur convocation faite par le président soit d'office, soit sur la demande de l'avocat du Gouvernement. Le Conseil de Discipline sera l'assemblée générale du tribunal siégeant en séance non publique et composée de quatre magistrats au moins.

Cette même assemblée statuera dans le cas où un magistrat ne serait plus apte à remplir ses fonctions. L'avocat du Gouvernement doit être entendu et, dans les deux cas, l'égalité de voix profitera au magistrat.

Les magistrats n'appartenant pas à leur magistrature nationale, ou n'y ayant pas une retraite assurée, devront adhérer aux institutions de prévoyance créées dans l'intérêt des fonctionnaires tangérois.

Proposition No. 7: Aucun compte ne doit être tenu de la nationalité des juges par rapport à celle des plaideurs.

Proposition No. 8: Réservée.

Propositions Nos. 9, 10, 11 et 12: Rédaction confirmée.

Le personnel du Tribunal, les magistrats non compris, est divisé au point de vue disciplinaire, en deux catégories: la première comprend les greffiers, les interprètes et les fonctionnaires ayant un rang équivalent; la seconde comprend les simples employés et les expéditionnaires.

Les peines disciplinaires sont:—

1. L'avertissement.
2. La réprimande.
3. La retenue de traitement pendant trente jours au plus.
4. La suspension.
5. La rétrogradation.
6. La révocation avec ou sans indemnité.

Les peines de l'avertissement, de la réprimande et de la retenue de traitement pour une période ne dépassant pas dix jours pourront être prononcées par le président. Les peines plus graves ne pourront être prononcées que par l'assemblée générale composée d'au moins quatre membres, l'avocat du Gouvernement entendu. La retenue de traitement ne peut jamais être appliquée aux employés de la première catégorie qui, pour la réprimande, pourront toujours demander leur renvoi devant l'assemblée générale.

Le président, en saisissant l'assemblée générale en tant que Conseil de Discipline, pourra suspendre l'inculpé de ses fonctions au titre préventif, la peine de la suspension

ne pourra être prononcée à titre définitif que si elle a été appliquée à titre préventive. Au cas où le Conseil de Discipline ne jugerait pas à propos d'infliger une peine, il déciderait si l'employé devrait toucher tout ou partie du traitement afférent à la suspension préventive; au cas de condamnation, ce traitement serait définitivement perdu pour le condamné.

Le tribunal international est assisté par :

Un greffier en chef, au traitement de 12,000 fr. par an pouvant être augmenté par l'assemblée générale, par augmentations de 1,000 fr. tous les trois ans, jusqu'à concurrence de 18,000 fr.;

Trois greffiers titulaires au traitement de 6,000 fr., pouvant être porté à 9,000 fr., par augmentations de 500 fr. tous les deux ans;

Trois greffiers auxiliaires, au traitement de 4,000 fr., pouvant être porté à 6,000 fr., par augmentations de 400 fr. tous les deux ans;

Un interprète en chef, au traitement de 10,000 fr., pouvant être porté à 15,000 fr., par augmentations de 1,000 fr. tous les trois ans;

Deux interprètes auxiliaires, appointés comme les greffiers titulaires;

Huit expéditionnaires, au traitement de 3,600 à 5,000 fr., par augmentations de 300 fr. tous les deux ans; et,

Gens de service.

Le greffier en chef, l'interprète en chef et les greffiers et interprètes, ainsi que les expéditionnaires, sont nommés par l'assemblée générale non publique du tribunal; les autres employés sont nommés par le président.

Au cas où les nécessités du service l'exigeraient, des postes d'employés au tribunal pourraient être créés par son assemblée générale, qui déterminerait l'émolument fixe qui y serait attaché, sous réserve de l'approbation du Comité de Contrôle.

Les mêmes formes seraient employées pour les suppressions d'emploi et les modifications de traitement.

Il ne sera accordé à ce personnel aucun émolument basé sur les actes judiciaires instrumentés ou sur le travail effectué; la rémunération se composera uniquement de l'allocation fixe ci-dessus indiquée.

Propositions Nos. 13 et 14: Confirmées.

Le tribunal réuni en assemblée générale non publique établit, l'avocat du Gouvernement entendu, un Règlement intérieur dans lequel il déterminera le mode d'exécution de toutes les parties du service judiciaire, notamment le nombre de la durée des audiences, le régime des vacances, les heures d'ouverture du greffe et les obligations incombant à ses auxiliaires, sous réserve pour le président du droit tant de désigner les membres du tribunal pour un service déterminé que pour ordonner les mesures nécessaires pour l'expédition régulière des affaires en cours. Ledit règlement ne deviendra exécutoire qu'après avoir été homologué par le Comité de Contrôle et ne pourra être modifié que dans la forme prescrite pour son établissement.

Proposition No. 15: Confirmée.

Proposition No. 16: Réservée.

Proposition No. 17: Confirmée.

Le costume d'audience des membres du tribunal international se compose d'une simarre de soie noire avec une toge de laine noire, un rabas de dentelle et une toque de velours noir; la toque ornée d'un galon d'or pour les juges et de deux galons d'or pour le président. Ce costume est complété par une ceinture de soie pourpre à franges de même couleur pour les juges et à franges d'or pour le président.

Dans les cérémonies publiques et pour accomplir un acte de leur fonctions hors du local affecté au tribunal, les juges porteront, comme signe distinctif, autour de la ceinture, une écharpe de soie pourpre avec glands d'or; celle du président sera or et pourpre avec glands d'or.

Le costume de l'avocat du Gouvernement sera semblable à celui du président, sauf que les galons de la toque, les franges de la ceinture et le tissu de l'écharpe seront d'argent.

Proposition No. 18: Les annonces légales seront faites dans le journal ou les journaux de Tanger que désignera à cet effet l'assemblée générale du tribunal avec tarification des insertions et du prix des numéros justificatifs à produire.

La suite de la discussion est renvoyée à la prochaine séance.

La séance est levée à 1 heure trois quarts.

Enclosure 4 in No. 100.

Procès-verbal of Twenty-eighth Meeting of Tangier Mixed Commission, held April 23, 1913.

LA Commission mixte d'internationalisation de Tanger s'est réunie le mercredi, 23 avril, 1913, au Madrid Palace Hôtel à 9 heures du soir.

Le procès-verbal de la précédente séance est adopté.

La Commission confirme ou adopte les propositions suivantes:—

Proposition No. 19: La compétence du tribunal international est générale en matière civile et commerciale à l'égard des indigènes aussi bien que des ressortissants des Puissances.

Proposition No. 20: Réservée. (Arbitrage.)

Proposition No. 21: Une disposition expresse insérée au Code civil prescrira l'application par le tribunal international des lois étrangères dans les affaires, qui, suivant les principes du droit privé international, seraient réglées par ces lois.

Proposition No. 22: Compétence en matière foncière: Réservée.

Proposition No. 23: La Municipalité et toutes les administrations de Tanger sont justiciables de la juridiction internationale, soit qu'elles soient appelées comme défenderesses à répondre des atteintes par elle portées aux droits acquis des étrangers, soit qu'elles agissent elles-mêmes comme demanderesses.

Toutefois, la juridiction internationale ne pourra, soit accessoirement, soit principalement, ordonner des mesures dont l'effet serait d'entraver l'action de la Municipalité ou d'une administration, soit en portant obstacle à l'exécution des règlements, pris par elle, soit en enjoignant l'exécution ou la discontinuation des travaux publics, ou en en modifiant l'étendue ou le mode d'application.

Proposition No. 24: En principe, le tribunal international n'est pas compétent en matière de statut personnel; toutefois, cette règle comporte les exceptions suivantes:—

1. La juridiction internationale n'a pas à se déclarer incompétente lorsqu'une question de statut personnel est soulevée devant lui, non à titre préjudiciel, ou exceptionnel, au cours d'une instance rentrant dans ses attributions. Néanmoins, la décision par elle rendue dans ces conditions sur ladite question n'aura l'autorité de la chose jugée qu'à l'égard des parties en cause et exclusivement pour la solution du fond du litige.

2. La juridiction internationale est compétente pour connaître des litiges portant sur une question de statut personnel, même introduits devant elle par voie principale, lorsqu'elle intéresse le ressortissant d'une Puissance dépourvue de tribunal consulaire à Tanger, ou un individu sans nationalité, ou de nationalité inconnue, ou non reconnu comme ressortissant par le consulat dont il se réclame, ou encore l'individu qui se trouve pourvu de plusieurs nationalités.

3. La juridiction internationale est compétente pour juger les affaires de pension alimentaire ou de succession qui s'agissent entre plaideurs appartenant à des nationalités différentes.

Proposition No. 25: Compétence en matière répressive. Réservée.

Proposition No. 26: En toute hypothèse le tribunal international aura une compétence à l'égard des étrangers assez étendue pour assurer la répression efficace des infractions aux règlements municipaux.

Proposition No. 27: Par dérogation à l'article 45 de la Convention d'Algésiras, les actions intentées par la Banque du Maroc et celles qui se produiraient contre elle, seront portées devant la juridiction internationale, qui en connaîtra conformément aux règles qui régissent sa propre organisation.

En ce qui concerne la Commission de la Dette et les autres administrations marocaines, la question est réservée.

Proposition No. 28: Un juge est désigné par le président du tribunal pour une période déterminée par le Règlement intérieur, laquelle ne pourra être moindre d'un mois ni supérieure à un an, pour connaître en première instance des matières civiles, commerciales et administratives.

Ce magistrat juge en dernier ressort, avec la seule assistance d'un greffier, et, s'il y a lieu, d'interprètes, les instances susdites dont la valeur ne dépasse pas 250 pesetas hassani. Exceptionnellement, appel pourrait être interjeté des décisions ainsi rendues,

avec l'autorisation de l'avocat du Gouvernement, au cas où le procès soulèverait, nonobstant son peu de valeur pécuniaire, une question importante de principe; mais cet appel ne serait pas suspensif de l'exécution.

Le même magistrat a qualité pour ordonner, sans autre assistance que ci-dessus et à charge d'appel, toute mesure conservatoire, sans préjudice du fond et vu l'urgence, à quelque valeur que puisse monter l'importance de l'affaire. S'il le fait sur simple requête, ce sera à charge de lui en référer en cas de difficulté. Il pourra aussi sur simple requête, taxer des frais de justice ou autoriser, dans les cas d'extrême urgence, des assignations d'heure à heure.

Il juge encore à charge d'appel toute affaire dépassant la valeur de 250 pesetas hassani ou d'une valeur indéterminée; il peut le faire, soit sans autre assistance que celle du greffier et d'interprètes, s'il y a lieu, soit avec en plus l'assistance de deux assesseurs avec voix consultative. L'adjonction de ces assesseurs peut être faite d'office par le juge; elle est obligatoire, si les parties le demandent; elle est obligatoire encore dans les affaires purement indigènes, et l'un de ces assesseurs doit être indigène (admis par M. Berge seulement).

L'exécution provisoire des jugements rendus en premier ressort par le juge de première instance ne peut être ordonnée nonobstant appel, avec ou sans caution, que s'il y a titre authentique, promesse reconnue ou condamnation précédente par jugement passé en force de chose jugée. Exceptionnellement, toutefois, l'exécution provisoire peut être accordée, avec ou sans caution, mêmes si ces conditions ne sont pas réalisées, en matière d'expulsion d'occupants, s'il n'y a pas de bail ou que le bail soit expiré, en matière de pension alimentaire ou de garde d'enfants ou en matière commerciale, s'il y a urgence.

Les appels des jugements rendus en matière civile par le juge de première instance sont portés devant une chambre composée de trois juges, assistés de droit de deux assesseurs indigènes avec voix consultative, dans les affaires purement indigènes, et pouvant s'adjoindre deux assesseurs avec voix consultative, dans les autres cas; l'adjonction de ces assesseurs est obligatoire, si l'une des parties le requiert.

Un recours en revision est ouvert, soit à la requête d'une partie intéressée soit d'office par l'avocat du Gouvernement, contre toute décision de la juridiction internationale, même passée en force jugée, même déjà exécutée dans les cas suivants:—

1. Si les pièces qui ont servi de base à la décision ont été depuis reconnues ou jugées fausses;
2. Si, dans un même jugement, il a des dispositions contraires inconciliables;
3. S'il y a contrariété de jugements rendus en dernier ressort entre les mêmes personnes et sur le même moyen;
4. Si des incapables n'ont pas été légalement représentés ou assistés.

Toute requête en revision sera accompagnée de la consignation d'une amende qui sera prononcée en cas de rejet; toutefois, le Ministère public n'a pas à faire de consignation.

La juridiction d'appel peut, soit d'office, soit à la demande des parties de l'avocat du Gouvernement renvoyer devant l'assemblée générale du tribunal en séance publique, tout litige qui donnerait lieu à l'interprétation des règlements organiques de Tanger.

Proposition No. 29: Tous les ans, dans le courant du mois de décembre, une commission composée de:

1. Deux personnes déléguées par le comité de contrôle;
2. Quatre personnes déléguées par l'assemblée municipale dont deux notables étrangers, un notable indigène musulman, et un notable indigène israélite, réunie sous la présidence du président du tribunal international et en présence de l'avocat du Gouvernement, doit composer une liste d'un nombre de personnes à décider chaque année par l'assemblée générale non publique du tribunal, lesquelles devront remplir les fonctions d'assesseurs pendant l'année suivante.

Le président désigne chaque mois les assesseurs qui devront siéger pendant le mois suivant; en cas de nécessité, il fait pendant le courant du mois les désignations supplémentaires qui deviendraient utiles pour la marche régulière du service.

Tout assesseur qui fait le service du tribunal pendant un mois ne peut, s'il n'y consent, être obligé à siéger de nouveau au cours de la même année ou avant l'expiration de six mois.

Le Code de Procédure fixe les cas de récusation pour les assesseurs; ils sont identiques à ceux établis pour les magistrats.

Les assesseurs doivent être à la disposition du tribunal pour lui fournir tous les renseignements sur les coutumes et usages locaux qu'il jugera utiles.

Ceux qui siègent avec voix consultative peuvent faire inscrire au procès-verbal d'audience leur avis contraire à la décision du juge.

Proposition No. 30: Juridiction répressive. Réserve.

Proposition No. 31: Une Commission des Grâces est instituée, elle se compose de deux magistrats désignés par le tribunal et de deux membres du Comité de Contrôle désignés par celui-ci; les désignations se font dans le courant du mois de décembre pour l'année suivante.

Les décisions de grâce peuvent comporter des remises totales ou partielles ou des commutations de peine; elles ne peuvent remettre des amendes ayant le caractère de restitutions civiles ou des dommages-intérêts; elles doivent rallier au moins trois voix et ne peuvent être prises qu'après que le Ministère public a été entendu.

Proposition No. 32: Il sera rédigé un Code civil des obligations et des contrats, qui, tout en prenant pour base les règles générales du droit international privé concernant l'application aux particuliers de leur statut personnel, établira cependant, pour les cas utiles, une loi locale sur la majorité et sur les testaments.

Proposition No. 33: Il sera rédigé un Code de Commerce qui ménagera une procédure uniforme de distributions de l'actif des commerçants tombés en faillite et des non-commerçants en déconfiture.

Des dispositions y seront prises pour donner aux créanciers le droit de nommer, sous réserve de l'approbation du tribunal, un liquidateur de leur choix; à défaut de quoi, la liquidation devra être faite par les agents salariés du tribunal sous le contrôle du juge.

Proposition No. 34 Code pénal: Les propositions de la Commission sont approuvées.

Proposition No. 35: *Idem.*

Proposition No. 36: *Idem.*

Proposition No. 37: Réserve (Code foncier et immatriculation).

Proposition No. 38: Expropriation. Réserve.

Proposition No. 39: Notariat. Proposition adoptée.

Proposition No. 40: Frais de justice. Proposition adoptée.

Proposition No. 41: Service pénitentiaire. Réserve.

Proposition No. 42: Statut personnel. Réserve.

Proposition No. 43: Pouvoir législatif. Réserve.

La Commission, après avoir pris connaissance des opinions individuellement exprimées par les trois jurisconsultes, procède à un échange de vues sur les conditions dans lesquelles la législation tangéroise pourra être modifiée.

M. Dupeyrat émet l'avis qu'on pourrait peut-être concilier la double nécessité de fixité de la législation et de possibilité de l'améliorer en exigeant pour toute modification l'accord du tribunal réuni en assemblée générale, de l'Assemblée municipale, et de Comité de Contrôle.

La discussion de cette proposition est renvoyée à une prochaine séance.

La séance est levée à 1 heure du matin.

Enclosure 5 in No. 100.

*Procès-verbal of Twenty-ninth Meeting of Tangier Mixed Commission,
held April 24, 1913.*

LA Commission mixte d'internationalisation de Tanger s'est réunie au Palais du Ministère d'Etat, le 24 avril, 1913, à 10 heures et demie du matin. Les trois jurisconsultes adjoints à la Commission mixte assistent à la séance.

Le procès-verbal de la précédente séance est adopté.

La Commission procède à l'examen des points sur lesquels, en matière judiciaire, un accord n'est pas intervenu, au cours de la séance de la veille par suite des objections ou réserves formulées par certains des jurisconsultes.

Proposition numéro 20, relative à la possibilité d'arbitrage pour tout litige entre parties d'une même nationalité. A la suite des observations échangées, la Commission conclut à l'inutilité d'une formule autorisant expressément l'arbitrage devant certaines autorités, vu que la faculté d'arbitrage est de droit commun pour tout le monde. L'arbitrage devra seulement être organisé de façon large par le Code de Procédure civile.

Proposition numéro 22, relative à la matière foncière. En matière foncière l'immatriculation est facultative en tout temps sur la demande de n'importe quel détenteur de droits réels. Elle devient obligatoire, quelle que soit la nationalité des intéressés, lors de la première mutation provenant d'une convention passée entre parties ou de constitution d'hypothèque. Au cas de première ci-dessus prévu, les frais d'immatriculation et les droits de mutation se confondront jusqu'à une concurrence.

Le tribunal international sera exclusivement compétent pour tout litige s'appliquant à une propriété immatriculée.

La juridiction du cadi reste compétente pour tout litige s'agissant exclusivement entre indigènes et ayant pour objet une propriété non immatriculée, à moins que l'immatriculation ne soit demandée.

Proposition 25: Juridiction pénale. Après échange de vues les délégués britannique et français ne peuvent que prendre acte de la déclaration de principe de leur collègue espagnol, aux termes de laquelle son Gouvernement considère comme essentiel le maintien à Tanger de sa juridiction consulaire en matière répressive.

La séance est levée à 2 heures.

Enclosure 6 in No. 100.

Procès-verbal of Thirtieth Meeting of Tangier Mixed Commission, held April 25, 1913.

LA Commission mixte d'internationalisation de Tanger s'est réunie au Palais du Ministère d'État, le 25 avril, 1913, à 10 heures et demie. Les juriconsultes adjoints à la Commission assistent à la séance.

Le procès-verbal de la précédente séance est adopté.

La Commission charge les trois juriconsultes de vouloir bien, pour sa prochaine séance, lui présenter un projet de décision précisant :

1. Les principes d'organisation judiciaire à insérer dans la convention ;
2. Les indications à donner auxdits juriconsultes pour la rédaction de la loi organique du Tribunal international et des codes qu'il aura à appliquer.

M. Berge demande à cette occasion si les réserves formulées par M. Comulada en ce qui concerne la compétence civile des juridictions consulaires sont maintenues.

M. Comulada répond qu'il est heureux de donner une preuve de l'esprit de conciliation de son Gouvernement en retirant lesdites réserves.

M. Berge observe que si la juridiction répressive des tribunaux consulaires est maintenue il y a lieu au moins de prévoir certaines exceptions exigées par l'ordre public.

Il rappelle qu'il s'est refusé, au cours des séances de la Commission technique, à examiner les diverses conséquences qui pourraient résulter, pour le fonctionnement du tribunal international, de la survivance des juridictions consulaires pour les matières répressives. "Je craignais," dit-il, "d'être entraîné sur un terrain transactionnel où il n'y aurait rien de bon à recueillir et à affaiblir ainsi ma thèse principale."

"Il serait toutefois imprudent de ma part de ne pas signaler l'utilité qu'il y aurait à obtenir certaines dispositions spéciales, au cas où on ne pourrait décider le Gouvernement espagnol à céder les pouvoirs répressifs de son consul au tribunal international."

"En effet, il faudrait que, dans cette hypothèse, ce dernier eût au moins la possibilité de sauvegarder à l'égard de tous et sa dignité et son indépendance. Pour cela il faudrait obtenir qu'il fut compétent pour connaître de toute infraction commise par des Européens, de quelque nationalité qu'ils fussent, et bien qu'en principe, ils ne fussent pas ses justiciables en matière pénale :

"1. A ses audiences ou dans les lieux où l'un ou plusieurs de ses magistrats procéderaient à un acte de leurs fonctions ;

"2. Contre des magistrats, assesseurs ou agents du tribunal international dans l'exercice ou à l'occasion de l'exercice de leurs fonctions ;

"3. Contre l'exécution des décisions, ordonnances ou mandats du même tribunal."

"On devrait lui donner encore compétence pour toute infraction commise par ses assesseurs ou agents dans l'exercice de leurs fonctions ou par suite de l'abus de ces fonctions, ainsi que pour les faits de faux témoignage, de faux serment ou de subornation de témoins commis à l'occasion de l'exercice de sa juridiction, quelle que soit la nationalité des coupables."

"Enfin, on devrait encore donner au tribunal international le droit d'appeler en témoignage devant lui les Européens, avec les droits de contrainte et les peines prévues (ou à prévoir par la loi pénale à rédiger) contre le refus de comparaître et de témoigner."

"Tout ceci ne peut être proposé que subsidiairement et en cas d'échec de la proposition principale ; mais, dans cette dernière hypothèse, il serait tout à fait indispensable de l'obtenir."

Les propositions de M. Berge sont adoptées.

M. Dupeyrat croit que la proposition de M. Berge doit être complétée en le sens qu'il serait difficilement admissible que les employés de la Municipalité fussent en matière pénale uniquement justiciables des tribunaux consulaires.

Après discussion, M. Comulada suggère la formule suivante :—

"Les agents et employés des services municipaux de Tanger seront justiciables du tribunal international pour toutes les infractions commises dans l'exercice ou à l'occasion de leurs fonctions ou au préjudice desdits services."

Adopté.

M. Brunyate suggère l'addition suivante :—

"Toute infraction commise au préjudice d'une administration municipale sera justiciable du tribunal international."

Mr. White et M. Dupeyrat approuvent. M. Padilla refuse son adhésion.

Pour répondre à l'hypothèse envisagée en cours de discussion, de crimes ou délits commis par des malfaiteurs de nationalités diverses, M. Comulada suggère le texte ci-après :—

"Toutes les infractions commises par une association de malfaiteurs de nationalités différentes seront portées devant le tribunal international."

"Sera considérée comme association de malfaiteurs, toute réunion d'au moins trois individus, armés ou non, qui a commis, tenté ou préparé une infraction avec violence contre des personnes ou des propriétés."

Adopté.

La Commission décide également :—

"1. Le tribunal international sera qualifié, quelle que soit la nationalité des délinquants, pour connaître des infractions aux règlements municipaux dont les peines ne dépassent pas la compétence du juge jugeant seul."

"2. Il sera également compétent, sans limitation de peine et sans exception de nationalité, pour les infractions aux règlements municipaux portant sur les matières dont l'énumération est annexée au présent procès-verbal."

"Pour les matières non comprises dans cette énumération, le tribunal international sera de même compétent s'il s'agit de règlements municipaux approuvés par le Comité de Contrôle à l'unanimité de ses membres."

La séance est levée à 2 heures.

Enclosure 7 in No. 100.

Procès-verbal of Thirty-first Meeting of Tangier Mixed Commission, held April 26, 1913.

LA Commission mixte d'internationalisation de Tanger s'est réunie, le 26 avril, 1913, au Palais du Ministère d'État, à 10 heures et demie du matin. Les trois juriconsultes adjoints à la Commission assistent à la séance.

Le procès-verbal de la précédente séance est adopté.

La Commission prend communication de la liste demandée la veille aux juriconsultes et portant énumération des matières qui peuvent faire l'objet de règlements municipaux, comportant des sanctions qu'il appartiendra au tribunal international de prononcer quelle qu'en soit l'importance et quelle que soit la nationalité des inculpés.

Cette liste comprend :

1. Réglementation des jeux de hasard.
2. Réglementation de l'exercice de la profession de médecin, de pharmacien ou de sage-femme.
3. Infractions relatives à la détention et à la mise en vente de denrées avariées ou falsifiées.
4. Infractions aux règlements sanitaires maritimes.

La Commission adopte cette liste.

Proposition 3 réservée précédemment. La Commission décide :

1. Le tribunal international dans les cas prévus par la loi organique comprendra des assesseurs indigènes.
2. Il est réservé à l'assemblée générale lors de l'élaboration du Règlement intérieur de décider si ces assesseurs indigènes seront des assesseurs habituels et rémunérés.

En raison de cette décision, les réserves formulées par M. Berge puis par M. Dupeyrat au sujet de la proposition No. 3 sont retirées.

La Commission décide que le tribunal international se compose d'un président et de cinq juges.

La proposition No. 30 est acceptée telle qu'elle est présentée par les juriconsultes.

La question de répartition des sièges au tribunal international sera ultérieurement réglée par la Commission mixte.

Sur la question du recrutement des magistrats, MM. Dupeyrat et Padilla sont d'accord pour estimer que chaque Puissance intéressée désignera les magistrats à son choix et que cette désignation sera notifiée par la voie diplomatique conformément aux traités en vigueur.

Mr. White accepte que les Puissances désignent lors de la première nomination, mais dans la suite il estime qu'il devra y avoir simple consultation.

La séance est levée à 2 heures un quart.

[21294]

No. 101.

Mr. Kennard to Sir Edward Grey.—(Received May 9.)

(No. 130.)

Sir,

Tangier, May 1, 1913.

I HAVE the honour to transmit herewith copy of a note which I have received from the Spanish Minister announcing the appointment of Mulai Mehdi as Khalifa of the Spanish zone, and of General Alfau as High Commissioner.* I have returned no reply to this note, and propose not to do so unless otherwise instructed.

Mulai Mehdi is not a half-brother of the Sultan, as erroneously reported in my despatch No. 122 of the 18th ultimo, but a nephew. He is about 22 years of age,

* Not printed.

Mulai Abd-el-Aziz tells me, and on the same plane of intelligence as the present Sultan Mulai Yusef. He appears from all accounts to be a colourless individual, who will no doubt act as a satisfactory figurehead for the Spanish authorities, though he is unlikely to enjoy much prestige among the tribes.

He has just arrived on a Spanish warship at Tetuan, where he was received in state without any sign of enthusiasm among the natives. His reception in Alcazar and Laraiche, when on his way to Tetuan, seems to have been equally cold.

General Alfau enjoys a reputation for tact and energy, which seems justified by the manner in which Tetuan was recently occupied by the troops under his command. He has not attempted to extend his operations beyond the town as yet, though it is reported that on the arrival of reinforcements from Spain the Spanish authorities will proceed with the effective occupation of the whole of their zone.

The Marquis de Villasinda, who left yesterday for his new post at Lisbon, assured me that he had warned his Government of the extreme caution which would be necessary to avoid serious conflicts with the tribes, which would doubtless find a re-echo on the frontiers of the international zone.

He told me that he was somewhat worried at the attitude which Raisuli has recently assumed. An arrangement had been come to with this troublesome kaïd by which he should live in Tangier, while his brother was to act as his Khalifa at Arzila. Raisuli was further to pay a visit to Spain, and his relations generally with the Spanish authorities were considered excellent. Suddenly, within the last fortnight, he has refused to come to the Spanish Legation, and states that a sum of money lying at Arzila has been seized by the Spanish authorities. M. de Villasinda cannot understand this sudden change of attitude, and considers the pretext of the alleged seizure quite ridiculous. I have been unable to ascertain the cause of this estrangement, but trust that it may not prove serious, as Raisuli could stir up disturbances in the Spanish zone which might also affect the Tangier zone.

The situation in the Angera is normal, though no settlement has yet been reached in the land disputes reported on in my despatch No. 122 of the 18th ultimo. It is amusing to note the enclosed extract from a local French journal commenting on a report in "Le Temps" that the British colony here had shown considerable nervousness during the recent incident with the Angera tribesmen.* By substituting "French" for "English" a more accurate appreciation of what passed would be arrived at.

Reports have appeared in the local press that the Spanish Legation would be reduced to an agency and consulate-general on the departure of M. de Villasinda, but this is not the case, M. Lopez-Roberts acting as Chargé d'Affaires. Reports appear almost daily now to the effect that various legations have been reduced, but with the exception of the Russian and Italian posts, which are shortly to be so, there is no truth as yet in them. The German Minister is especially annoyed at these reports, and states that he has received an intimation from Berlin that there is no intention of making any change in the status of his legation in the immediate future.

I have, &c.

H. W. KENNARD.

[21296]

No. 102.

Mr. Kennard to Sir Edward Grey.—(Received May 9.)

(No. 132.)

Sir,

Tangier, May 3, 1913.

WITH reference to Mr. White's despatch No. 51 of the 1st February last, I have the honour to report that the need of an efficient municipal police here is becoming daily more felt. It will be remembered that a scheme for a provisional police force was submitted to the Corps Diplomatique by the Commission d'Hygiène; nothing has come of this scheme owing to the opposition of the Spanish Government. A number of burglaries have been recently reported by the French local press, but on a Spanish newspaper producing strong evidence to the effect that the cases reported were in most instances not genuine, they appear mysteriously to have ceased. Nevertheless, there is no doubt that it is essential that Tangier should be provided in the near future with an efficient urban police capable of ensuring

* Not printed.

public order, arresting people of all nationalities for any offence, regulating street traffic, and, in fact, carrying out the police duties of any large European town.

In addition to this force, a mounted force of gendarmerie is required for the patrolling of the outlying districts and the suppression of any disorder caused by the tribes on the frontiers of the international zone.

The present police, consisting of some 500 extra-urban police under French officers and 300 urban police under Spanish officers, are a hybrid force which are not suitable for either the duties of urban police or gendarmerie. They are merely a military force with no powers or capacity for carrying out the multifarious functions of an "agent de sûreté." It is true that they patrol the town and suburbs, but in the case of natives the Basha's "soldiers" are far more effective, and in the case of Europeans they rarely dare make arrests, or when they do, the delinquent concerned is frequently released next day.

During the recent disturbances in the Angora I gather that the French agency had no confidence in the capacity of the extra-urban police to suppress a rising on a large scale. New officers, with no local experience, have been recently appointed to them, and it was found necessary to bring back the former commandant to restore the discipline and efficiency which the force had at the time of his command. As they cost as much as 1,000 fr. per man annually, they cannot be said to be by any means an economical force.

A petition has recently been submitted by the Syndicat international pour le Développement de Tanger to the Conseil sanitaire suggesting that the existing police "tabors" be more effectively employed, as at Casablanca and Larache, for the insurance of the public order and security. I have in my annotation suggested that we should be furnished with details of what has been done at these towns, and that the matter should be submitted to the commandants of the French and Spanish "tabors" for an expression of their opinion.

The French agent, with whom I discussed the question this morning, fully agreed that some provision should be made with the least possible delay for a police force suitable to the dual requirements of the Tangier zone.

Should disturbances on a large scale break out among the tribes on the frontier of the zone as the result of the Spanish occupation, no force as small as the present one would be able to keep satisfactory order, and military operations might be necessary.

The Spanish authorities will, presumably, in due course, send expeditions into the interior which will meet with resistance from the tribes. It might be advisable that they should be warned to take every precaution to conduct any operations in the manner best calculated to avoid tribal incursions into the Tangier zone.

I have, &c.

H. W. KENNARD.

[23009]

No. 103

*Projet de Décret chérifien instituant un Tribunal international à Tanger.—
(Communicated by Mr. Brunyate, May 9.)

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NOUS,
Vu la Convention du, à laquelle toutes les Puissances ont
adhéré;

DÉCRÉTONS :

De la Magistrature.

ARTICLE 1.

Il est institué à Tanger un tribunal international composé d'un président, d'un vice-président et de quatre juges.

ARTICLE 2.

Le nombre de juges pourra être augmenté éventuellement par décision du Comité de Contrôle rendue sur la proposition de l'assemblée générale du tribunal.

ARTICLE 3.

Les magistrats sont nommés par Nous, sur la présentation des Puissances, chacune respectivement pour les sièges (ou les vacances) à elle attribués.

ARTICLE 4.

Les magistrats sont inamovibles.

Ils peuvent cependant être révoqués, pour des faits touchant à leur honorabilité, par décision de l'assemblée générale du tribunal, réunie sur la convocation du président, soit d'office, soit sur la demande de l'Avocat du Gouvernement, et statuant en séance non publique comme conseil de discipline.

Tout magistrat reconnu comme n'étant plus apte à remplir ses fonctions peut également en être relevé par décision de l'assemblée générale convoquée dans les mêmes conditions.

Pour délibérer valablement dans les deux cas qui précèdent, l'assemblée générale doit être composée de quatre magistrats au moins. L'Avocat du Gouvernement doit être entendu, et le magistrat doit être invité à fournir ses observations. L'égalité de voix profite au magistrat.

ARTICLE 5.

Le président est le chef de la compagnie. Il est responsable de tous les services du tribunal et, sauf ce qui serait réservé à l'assemblée générale par le Règlement Intérieur, il donne les ordres nécessaires pour en assurer la marche.

Il réunit l'assemblée générale du tribunal quand il le juge nécessaire.

Il a seul qualité pour correspondre, au nom du tribunal, pour les affaires administratives avec les autres autorités.

Il est remplacé en cas d'absence ou d'empêchement par le vice-président ou, si celui-ci est également absent ou empêché, par le juge le plus ancien.

ARTICLE 6.

Les juges prennent rang suivant la date de leur nomination ou, au cas où ils ont été nommés le même jour, suivant leur âge.

Ils sont tous sur le même pied au point de vue de traitement.

ARTICLE 7.

Les fonctions de magistrat sont incompatibles avec toutes autres fonctions salariées, avec l'exercice de toute profession, et avec toute participation active à une entreprise industrielle, commerciale ou foncière.

De l'Avocat du Gouvernement.

ARTICLE 8.

Il est placé à côté du tribunal un Avocat du Gouvernement, nommé dans les mêmes formes que les magistrats, qui exercera par lui-même ou par ses substituts les attributions ci-après énoncées, ainsi que celles à lui conférées par toute autre loi.

ARTICLE 9.

L'Avocat du Gouvernement et ses substituts sont amovibles.

ARTICLE 10.

L'Avocat du Gouvernement peut être remplacé en cas de besoin urgent par un juge délégué à cet effet par l'assemblée générale du tribunal.

ARTICLE 11.

En matière pénale, l'Avocat du Gouvernement dirige l'action publique. Il peut poursuivre directement devant l'organe compétent du tribunal les infractions de toute nature venant à sa connaissance. Il peut également intervenir dans toute poursuite intentée par une partie civile. Toutes les affaires dont le juge d'instruction est saisi lui sont communiquées, ainsi que celles de la compétence du juge de première instance, lorsque ce dernier le trouve utile.

ARTICLE 12.

Toutes les affaires où il y a des mineurs ou des incapables en cause sont communiquées à l'Avocat du Gouvernement, qui peut y prendre des conclusions.

Il peut intenter au nom des mineurs et des incapables tout procès nécessaire pour la protection de leurs intérêts.

ARTICLE 13.

L'Avocat du Gouvernement a qualité pour représenter les administrations publiques tangéroises en justice et pour faire en leur nom tous actes utiles de procédure.

ARTICLE 14.

L'Avocat du Gouvernement peut saisir, s'il y a lieu, la juridiction disciplinaire établie pour les magistrats et le personnel judiciaire.

ARTICLE 15.

Dans toute matière où son intervention est exigée ou admise par la loi, l'Avocat du Gouvernement peut se présenter en personne pour requérir; il peut également, s'il le préfère, faire parvenir ses conclusions ou réquisitions par écrit.

Du Personnel Auxiliaire.

ARTICLE 16.

Il y a près le tribunal un greffier en chef et un interprète en chef assermentés, ainsi que des greffiers, commis-greffiers et interprètes assermentés, des expéditionnaires et du personnel subalterne en nombre suffisant.

ARTICLE 17.

Le personnel permanent du tribunal touche les traitements prévus au Règlement Intérieur, à l'exclusion de tout émoluments basé sur les actes judiciaires instrumentés ou sur le travail effectué.

ARTICLE 18.

Les fonctions de greffier en chef, interprète en chef, greffier, commis-greffier ou interprète sont incompatibles avec tout autre emploi rétribué et avec toute participation active dans une entreprise industrielle, commerciale ou foncière.

Compétence en matières civile, commerciale et administrative.

ARTICLE 19.

Le tribunal international a une compétence générale en matières civile, commerciale et administrative.

ARTICLE 20.

La municipalité et toutes les administrations tangéroises sont justiciables de ce tribunal. Il en est de même pour toutes les administrations marocaines, mais exclusivement en ce qui concerne leurs affaires spéciales à Tanger.

La Banque d'État du Maroc sera assimilée aux administrations marocaines au point de vue de la compétence du tribunal international dès qu'elle aura renoncé aux privilèges juridictionnels à lui conférés par l'Acte d'Algéciras.

ARTICLE 21.

Le tribunal ne peut cependant ordonner des mesures dont l'effet serait d'entraver l'action de la Municipalité ou d'une administration publique, soit en portant obstacle à l'exécution des règlements pris par elles, soit en enjoignant l'exécution ou la discontinuation de travaux publics, soit en en modifiant l'étendue ou la mode d'application.

ARTICLE 22.

Le tribunal applique, en matière civile, commerciale ou administrative, la législation tangéroise, sauf le cas où, en vertu des principes de droit international, le litige serait régi par une autre loi.

En cas de silence ou d'obscurité de la loi, le tribunal s'inspirera des principes d'équité et de justice naturelle.

Compétence en matière foncière.

ARTICLE 23.

Le tribunal international a une compétence en matière foncière qui s'étend :

- 1° A tout litige portant sur un immeuble immatriculé;
- 2° A tout litige entre étrangers, même d'une même nationalité, ou entre étrangers et indigènes;
- 3° A des litiges purement indigènes, à condition que l'immatriculation soit demandée.

ARTICLE 24.

Le tribunal applique en matière foncière la législation tangéroise, en tenant compte des usages locaux bien établis en tant qu'ils n'ont pas été remplacés par cette législation.

Compétence en matière de Statut Personnel.

ARTICLE 25.

Le tribunal international a une compétence en matière de statut personnel qui s'étend :

- 1° Aux affaires intéressant des indigènes non musulmans et non israélites;
- 2° Aux affaires intéressant des étrangers autres que ceux qui sont reconnus comme ressortissants d'une Puissance ayant à Tanger un tribunal consulaire avec compétence en matière de statut personnel;
- 3° Aux affaires litigieuses relatives à des successions, où il y a des personnes de nationalités diverses en cause;
- 4° Aux affaires de pension alimentaire où les personnes en cause sont de nationalités diverses.

ARTICLE 26.

Ce tribunal a en outre qualité pour trancher toute question préjudicielle de statut personnel soulevée au cours d'une instance dont il est régulièrement saisi.

Néanmoins, la décision sur une question semblable n'aura force de chose jugée, même à l'égard des parties en cause, qu'aux fins du procès où la question a été soulevée.

ARTICLE 27.

En matière de succession, le tribunal international applique le droit national du *de cujus*; en matière de pension alimentaire entre des parties de nationalités diverses, il applique les dispositions de la législation tangéroise.

Dans les autres matières de statut personnel, il applique le droit national des parties, ou, dans le cas où il n'y a pas d'autre droit qui est applicable, les dispositions de la législation tangéroise.

ARTICLE 28.

Dans l'application d'un droit national en matière de statut personnel, et lorsque ce droit varie suivant la race, la confession, ou le domicile des intéressés, le tribunal international tient compte des modalités qui en résultent suivant leur race, confession ou lieu d'origine.

ARTICLE 29.

Tout testament passé à Tanger est valable aux fins de tout procès devant le tribunal international, s'il a été passé dans les formes prévues au droit national du testateur ou dans celles prévues par la législation tangeroise.

Compétence en matière pénale.

ARTICLE 30.

Le tribunal international est compétent pour connaître de toutes infractions, quelle que soit leur nature, commise par des indigènes ou par des étrangers qui ne sont pas reconnus comme ressortissants d'une Puissance ayant à Tanger un tribunal consulaire avec compétence en matière pénale.

ARTICLE 31.

Ce tribunal est, en outre, compétent, quelle que soit la nationalité du délinquant, pour connaître des infractions suivantes :

- 1° Infractions contre des magistrats, assesseurs ou agents du tribunal dans l'exercice ou à l'occasion de l'exercice de leurs fonctions ;
- 2° Infractions contre l'exécution des décisions, ordonnances ou mandats du tribunal ;
- 3° Infractions ayant pour but ou pouvant avoir pour effet d'induire la justice internationale en erreur, ou de faire falsifier des actes à rédiger par le tribunal ou par ses agents ;
- 4° Refus de prêter à la justice internationale une assistance exigée par la loi, ou légalement requise par le tribunal ou par ses agents ;
- 5° Infractions commises aux audiences du tribunal, ou dans les lieux où l'un ou plusieurs de ses magistrats procèdent à un acte de leurs fonctions ;
- 6° Infractions commises par des magistrats, assesseurs ou agents du tribunal dans l'exercice de leurs fonctions, ou par suite de l'abus de ces fonctions.
- 7° Infractions commises au préjudice d'une administration municipale.

ARTICLE 32.

Il en est de même en ce qui concerne des infractions à des règlements municipaux dans les cas suivants :

- 1° Si les peines prévues par le règlement ne dépassent pas le taux de la compétence exclusive du juge de première instance siégeant seul. Le tribunal reste compétent même si des peines plus graves sont prévues en cas de récidive ; mais dans ce cas il ne peut prononcer des peines d'emprisonnement dépassant un mois et demi ou d'amende excédant 200 pesetas hassani ;
- 2° Si la Commission de Contrôle a approuvé à l'unanimité l'application générale du règlement ;
- 3° S'ils'agit d'un règlement relatif à l'une des matières suivantes :
 - (a.) Exercice de la profession de médecin, de pharmacien ou de sage-femme ;
 - (b.) Détention ou mise en vente de denrées alimentaires avariées ou falsifiées ;
 - (c.) Police sanitaire maritime ;
 - (d.) Établissements publics ;
 - (e.) Presse.

ARTICLE 33.

Il en est également de même en ce qui concerne les infractions suivantes :

- 1° Infractions commises au préjudice d'une administration municipale ;
- 2° Infractions commises par des agents ou employés des services municipaux tangerois dans l'exercice ou à l'occasion de l'exercice de leurs fonctions ;
- 3° Infractions contre des agents ou employés des services municipaux tangerois dans l'exercice ou à l'occasion de l'exercice de leurs fonctions ;
- 4° Infractions avec violence contre des personnes ou des propriétés, commises ou tentées par une réunion d'au moins trois individus, pourvu que ces individus ne soient pas tous étrangers d'une même nationalité ;
- 5° Infractions contre la sûreté extérieure ou intérieure soit de la Zone Internationale soit des Zones française ou espagnole ;

- 6° Contrefaçon des sceaux, timbres, poinçons et marques d'une administration tangeroise ou marocaine ;
- 7° Contrefaçon des billets de banque émis par la Banque d'État du Maroc ;
- 8° Infractions de fausse monnaie à l'égard des monnaies ayant cours légal à Tanger ;
- 9° Infractions en matière de faillite et de banqueroute ;
- 10° Infractions commises par voie de la presse ;
- 11° Infractions aux lois électorales.

ARTICLE 34.

En matière pénale le tribunal international applique la législation tangeroise.

Compétence pour l'exécution des Commissions Rogatoires, etc.

ARTICLE 35.

Le tribunal international est compétent pour exécuter des commissions rogatoires venant des Zones française ou espagnole ou de l'étranger ; il est également compétent, quelle que soit la nationalité de l'inculpé, pour faire toute la procédure judiciaire relative à une demande en extradition ou en quasi-extradition faite conformément aux dispositions des traités ou d'un décret chérifien par les autorités d'un pays étranger ou des Zones française ou espagnole.

De l'Organisation du Tribunal au Civil.

ARTICLE 36.

Les affaires civiles, commerciales, foncières et administratives sont jugées en première instance par un juge unique, désigné conformément aux dispositions du Règlement Intérieur ou, en cas de besoin, par le président.

ARTICLE 37.

Les affaires dont la valeur ne dépasse pas 250 pesetas hassani sont jugées en dernier ressort par ledit juge siégeant seul.

Néanmoins, les parties peuvent exceptionnellement faire appel des décisions rendues en pareille matière, mais seulement avec l'autorisation de l'Avocat du Gouvernement, au cas où le procès soulève une question importante de principe. Cet appel n'est en aucun cas suspensif de l'exécution.

ARTICLE 38.

Les affaires d'une valeur dépassant 250 pesetas hassani ou d'une valeur indéterminée sont jugées à charge d'appel par ledit juge siégeant seul ou avec deux assesseurs ayant voix consultative. L'adjonction de ces assesseurs peut être faite d'office par le juge ; elle est obligatoire si l'une des parties le demande.

L'exécution provisoire, nonobstant appel des jugements ainsi rendus, peut être ordonnée avec ou sans caution dans les cas suivants :

- 1° En matière commerciale ;
- 2° En matière de pension alimentaire ou de garde d'enfants ;
- 3° En matière d'expulsion d'occupants, s'il n'y a pas de bail ou que le bail soit expiré ;
- 4° S'il y a titre authentique, promesse reconnue ou condamnation précédente par jugement passé en force de chose jugée.

ARTICLE 39.

Le juge de première instance siégeant seul peut taxer des frais, judiciaires ou extra-judiciaires.

Il peut autoriser, dans les cas d'extrême urgence, des assignations d'heure à heure.

Il peut, même dans des affaires où il s'est déjà adjoint des assesseurs, ordonner à charge d'appel toute mesure conservatoire, sans préjudice du fond. S'il le fait sur simple requête, c'est à charge de lui en référer en cas de difficulté.

Il est également compétent pour ordonner des mesures conservatoires à l'encontre des défendeurs qui n'auront pu être touchés par l'assignation.

ARTICLE 40.

Les appels contre les jugements rendus par le juge de première instance sont portés devant une chambre composée de trois magistrats, qui peuvent s'adjoindre deux assesseurs avec voix consultative. L'adjonction de ces assesseurs est de droit dans les affaires purement indigènes et, dans les autres affaires, si l'une des parties le demande.

ARTICLE 41.

La juridiction d'appel peut, soit d'office, soit à la demande des parties ou de l'Avocat du Gouvernement, renvoyer devant l'assemblée générale du tribunal en séance publique, tout litige donnant lieu à l'interprétation des règlements organiques de Tanger.

ARTICLE 42.

Toute décision de la juridiction internationale, même passée en force de chose jugée, même déjà exécutée, est susceptible, dans les formes prévues au Code de Procédure Civile et Commerciale, d'un recours en revision devant l'assemblée générale du tribunal en séance publique, à la demande de toute partie intéressée, dans les cas suivants :

- 1° Si, dans le cours de l'instruction de l'affaire, il y a eu dol personnel de la part de la partie adverse de nature à influencer sur la décision des juges ;
- 2° Si les pièces qui ont servi de base à la décision ont été, depuis, reconnues ou jugées fausses ;
- 3° Si, dans un même jugement, il y a des dispositions contraires inconciliables ;
- 4° S'il y a contrariété de jugements rendus en dernier ressort entre les mêmes parties et sur les mêmes moyens ;
- 5° Si des incapables n'ont pas été valablement défendus.

Toute demande en revision doit être accompagnée de la consignation de l'amende prévue audit code ; néanmoins, l'Avocat du Gouvernement, agissant au nom d'un incapable ou pour le compte d'une administration, n'y est pas astreint.

De l'Organisation du Tribunal au Pénal.

ARTICLE 43.

Toute affaire en matière pénale est jugée en première instance par un juge unique, ou fait l'objet d'une instruction préliminaire de la part du même juge. Ce juge est désigné conformément aux dispositions du Règlement Intérieur ou, en cas de besoin, par le président.

ARTICLE 44.

Le juge unique siégeant comme juge de première instance, siège seul ou avec deux assesseurs ayant voix consultative. Siégeant comme juge d'instruction, il siège seul.

ARTICLE 45.

Le juge de première instance siégeant seul ne peut prononcer de peines restrictives de la liberté dépassant un mois d'emprisonnement ni une amende excédant 50 pesetas hassani.

ARTICLE 46.

Le juge de première instance siégeant seul est exclusivement compétent pour connaître de toute infraction pour laquelle la loi prévoit des peines d'emprisonnement et de l'amende ne dépassant pas les taux mentionnés à l'article précédent.

Il est en outre compétent, concurremment avec le juge siégeant avec assesseurs, pour connaître de toute infraction pour laquelle la loi prévoit des peines d'emprisonnement ne dépassant pas six mois et de l'amende n'excédant pas 500 pesetas hassani, ainsi que de toute infraction énumérée à cet effet au Code d'Instruction Criminelle.

Néanmoins, toute infraction prévue à l'alinéa précédent est portée devant le juge siégeant avec assesseurs, si l'inculpé le demande avant tout débat au fond.

En outre, le juge siégeant seul peut, soit d'office, soit sur la demande de la partie civile ou la réquisition de l'Avocat du Gouvernement, et en tout état de cause, renvoyer toute affaire semblable dont il est saisi pour être jugée avec l'assistance d'assesseurs, s'il estime que les peines de sa compétence sont insuffisantes.

ARTICLE 47.

Le juge de première instance siégeant avec assesseurs est compétent pour connaître de toute infraction pour laquelle la loi ne prévoit pas les peines de la mort ou des travaux forcés à perpétuité.

Il ne peut cependant prononcer de peines de travaux forcés ni de l'emprisonnement pour une durée dépassant trois ans. Il peut prononcer des peines d'amende sans limitation de valeur.

ARTICLE 48.

Si le juge de première instance siégeant avec assesseurs estime qu'une affaire dont il est saisi exige une instruction préliminaire ou que les peines de sa compétence sont insuffisantes, il peut, soit d'office, soit sur la demande des parties ou sur la réquisition de l'Avocat du Gouvernement, et en tout état de cause, renvoyer les assesseurs et procéder à l'instruction de l'affaire en vue de sa mise en jugement, si les preuves sont suffisantes, devant la chambre prévue à l'article suivant.

ARTICLE 49.

Toute infraction pour laquelle la loi prévoit les peines de la mort ou des travaux forcés à perpétuité, ainsi que toute autre infraction qui a été l'objet d'une instruction préliminaire devant le juge de première instance est jugée en dernier ressort par une chambre composée de trois magistrats avec deux assesseurs ayant voix délibérative, qui, dès qu'elle est saisie, peut prononcer toute peine prévue par la loi.

ARTICLE 50.

Les décisions du juge de première instance siégeant avec assesseurs sont toujours susceptibles d'appel.

Celles du juge de première instance siégeant seul ne sont susceptibles d'appel que dans les cas suivants :

- 1° En cas de condamnation à l'emprisonnement ;
- 2° En cas de condamnations autres que celles à l'amende, aux dommages-intérêts, à la restitution et aux frais ;
- 3° Si pareille condamnation a été requise par la poursuite et que le juge ne l'ait pas prononcée ou qu'il y ait eu acquittement.

ARTICLE 51.

Les appels contre les décisions du juge de première instance siégeant seul ou avec assesseurs sont portés devant la chambre prévue à l'article 49 ci-dessus.

La chambre d'appel ne peut, en aucun cas, prononcer une peine dépassant la compétence de la juridiction de première instance.

ARTICLE 52.

Les condamnations à l'amende et aux frais sont immédiatement exécutoires nonobstant appel.

Il en est de même de la condamnation à l'emprisonnement, à moins que le condamné ne fournisse caution que, s'il n'interjette pas appel, il ne se soustraira pas à l'exécution de la peine à l'expiration des délais d'appel, et que, s'il interjette appel, il comparaitra à l'audience, et ne se soustraira pas à l'exécution du jugement à intervenir.

Tout jugement de condamnation à l'emprisonnement fixe la somme pour laquelle il sera donné caution, si l'inculpé est en liberté ; dans le cas contraire, le juge peut soit fixer une caution, soit ordonner l'exécution provisoire de la peine.

ARTICLE 53.

Toute décision de la chambre prévue à l'article 49 ci-dessus, siégeant soit en appel, soit en premier et dernier ressort, est susceptible, dans les formes prévues au Code d'Instruction Criminelle, d'un recours pour violation ou fausse application de la loi devant l'assemblée générale du tribunal en séance publique.

Ce recours n'est suspensif de l'exécution qu'en cas de condamnation à mort.

Du Droit de Grâce.

ARTICLE 54.

Le droit de grâce est exercé par une commission composée de deux membres du Comité de Contrôle délégués à cet effet chaque année au cours du mois de décembre précédent et de deux magistrats délégués de la même manière par l'assemblée générale du tribunal.

La grâce peut être plénière ou partielle; la peine peut aussi être remplacée par toute peine inférieure.

Toute décision gracieuse doit réunir trois voix au moins.

Des Assesseurs.

ARTICLE 55.

Les assesseurs sont à la disposition du tribunal pour lui fournir tous les renseignements sur les coutumes et usages locaux qu'il jugera utiles.

ARTICLE 56.

Tout assesseur siégeant avec voix consultative peut faire insérer au procès-verbal d'audience son avis contraire à la décision du tribunal.

ARTICLE 57.

Les assesseurs peuvent être récusés par demande motivée, sur laquelle le juge ou le tribunal statue séance tenante.

ARTICLE 58.

Les assesseurs sont tous les deux indigènes dans les affaires purement indigènes; l'un d'eux est indigène s'il y a un indigène en cause; tous les deux sont étrangers dans les autres cas.

Des Vacances judiciaires.

ARTICLE 59.

Les vacances judiciaires durent du 15 juillet au 1^{er} octobre de chaque année. Un service de vacations est organisé pour l'expédition des affaires urgentes.

ARTICLE 60.

Le président a le pouvoir de prendre les mesures nécessaires pour assurer l'expédition de toutes les affaires urgentes inscrites au rôle et en état d'être jugées avant la clôture de l'année judiciaire.

Du Règlement Intérieur.

ARTICLE 61.

Le tribunal réuni en assemblée générale non publique, établira, l'Avocat du Gouvernement entendu, un Règlement Intérieur dans lequel il déterminera, dans les limites tracées par le présent Dahir, le mode d'exécution de toutes les parties du service judiciaire, notamment le nombre et la durée des audiences, le régime

des vacations, la nomination et le choix des assesseurs, les heures d'ouverture du greffe et les obligations incombant à ses auxiliaires, sous réserve pour le président du droit, tant de désigner les membres du tribunal pour un service déterminé, que pour ordonner les mesures nécessaires pour l'expédition régulière des affaires en cours.

Ce même règlement réglera le nombre, nomination, rémunération, avancement, congés et discipline du personnel auxiliaire du tribunal.

Les dispositions contenues à l'annexe au présent Dahir feront partie intégrante dudit règlement.

Ce règlement ne deviendra exécutoire qu'après avoir été homologué par le Comité de Contrôle; il ne pourra être modifié que dans les formes prescrites pour son établissement.

Dispositions Diverses.

ARTICLE 62.

Les audiences sont publiques, sauf les cas où le tribunal, par une décision motivée, ordonne le huis clos dans l'intérêt des bonnes mœurs ou de l'ordre public.

ARTICLE 63.

Les langues judiciaires employées devant le tribunal, pour les plaidoiries et la rédaction des actes et sentences, sont l'arabe, le français et l'espagnol.

ARTICLE 64.

Nul ne sera arrêté ni détenu, si ce n'est en vertu d'un mandat de justice ou en cas de flagrant délit. Dans ce dernier cas, il sera mis à la disposition de la justice sans retard.

ARTICLE 65.

Nul ne sera condamné sans être mis à même de se défendre.

ARTICLE 66.

Les parties peuvent comparaître en personne ou se faire représenter par un de leurs parents jusqu'au troisième degré de parenté ou alliance.

Sauf ce qui précède, les personnes admises pour exercer comme avocat devant le tribunal peuvent seules représenter les parties.

L'admission et la discipline des avocats feront l'objet d'un règlement fait dans les formes prévues pour le Règlement Intérieur.

ARTICLE 67.

Le tribunal ou le juge saisi d'une affaire a le contrôle de toute la procédure. Il peut procéder à toute mesure d'instruction utile pour établir la vérité, même lorsqu'il n'y est pas requis par les parties.

ARTICLE 68.

Les actes de procédure sont faits par les employés du greffe sur la demande des parties et sous la surveillance du juge, sans l'intervention d'officiers ministériels.

ARTICLE 69.

L'exécution des jugements et ordonnances a lieu dans les mêmes conditions. L'assistance des autorités administratives peut être requise.

Disposition transitoire.

ARTICLE 70.

Les diverses parties du présent Dahir entreront en vigueur en vertu d'un arrêté pris par le Comité de Contrôle, qui édictera toutes les mesures transitoires que le cas comportera. Dès l'institution du tribunal, les arrêtés semblables ne seront pris que sur l'avis conforme de l'assemblée générale du tribunal.

Annexe de Dispositions à incorporer dans le Règlement intérieur du Tribunal ou dans le Règlement sur l'exercice de la profession d'Avocat.

[Pas encore élaboré].

[20489]

No. 104.

Sir Edward Grey to Señor Merry del Val.

Your Excellency,

Foreign Office, May 9, 1913.

YOUR Excellency was good enough to express on the 1st instant the hope of the Spanish Government that the British delegate on the Tangier Conference, now sitting at Madrid, might be instructed to support a proposal to be made by his Spanish colleague that the system of foreign protection should be abolished in the international zone as soon as the new Municipality came into being.

I have now the honour to inform your Excellency that Mr. White has been authorised to state that, in the opinion of His Majesty's Government, protection should cease at the earliest possible moment, but that, before this can be done, it will be necessary to await the establishment of the proposed international tribunal, which may possibly not come into being until some time after the creation of the Municipal Assembly.

I trust that this arrangement will be accepted by the conference, in which case it will form part of the general agreement respecting Tangier to be submitted jointly by the British, French, and Spanish Governments to the remaining powers signatory to the Act of Algeciras.

I would add that Mr. White has further been instructed to make it clear that the interests of Menebhi and other British protégés in the Tangier zone will, in any case, continue to be protected in the French and Spanish zones of the Shereefian Empire until the abolition of the capitulations therein has been formally recognised by His Majesty's Government.

I am, &c.
E. GREY.

[21876]

No. 105.

Sir R. Rodd to Sir Edward Grey.—(Received May 13.)

(No. 117.)
Sir,

Rome, May 7, 1913.

I HAVE the honour to transmit herewith translation of an agreement which, as foreshadowed in the speech of the Marquis di San Giuliano, of which I had the honour to forward you some account in my despatch No. 44 of the 23rd February last, has been concluded between Italy and Spain with regard to their mutual treatment in Libya and the Spanish sphere of Morocco, and was signed here on the 5th instant.

I have, &c.
RENNELL RODD.

Enclosure in No. 105.

Extract from the "Popolo Romano" of May 5, 1913.

ITALO-SPANISH AGREEMENT.

(Translation.)

YESTERDAY the following agreement between Italy and Spain was signed at the Consulta by the Minister for Foreign Affairs, the Marquis di San Giuliano, and the Spanish Ambassador, M. Pina y Millet:—

"The Royal Government of Italy and the Royal Government of Spain have agreed to express their mutual intention to raise no obstacle reciprocally to the execution of such measures as they may consider advisable to introduce, Italy in Libya, and Spain in her sphere of influence in Morocco.

"They have likewise agreed that the treatment contemplated by the Franco-Italian declaration, dated Paris, the 28th October, 1912, shall be equally assured to Italy in Morocco (Spanish sphere of influence) and to Spain in Libya, and the same favourable treatment as in Libya and Morocco may be accorded by the one party or the other to the subjects, products, institutions or undertakings of any third State, will forthwith be acquired by the other Power signatory of this agreement."

[21865]

No. 106.

Sir M. de Bunsen to Sir Edward Grey.—(Received May 13.)

(No. 87.)

Madrid, May 8, 1913.

Sir,

WITH reference to my telegram No. 14 of the 6th instant, I have the honour to forward herewith a memorandum by Mr. White explaining exactly the attitude of his French colleague on the Mixed Tangier Commission as regards the retention by Spain of any part of her consular jurisdiction in that zone.

I fear that, for the reasons given by Mr. White, it will now be very difficult to obtain the total renunciation by Spain, and therefore by other countries, of consular jurisdiction at Tangier.

I have, &c.
MAURICE DE BUNSEN.

Enclosure 1 in No. 106.

Memorandum by Mr. White.

I TOOK an opportunity at a meeting of the Mixed Commission yesterday to communicate to my French and Spanish colleagues the substance of portions of Sir E. Grey's telegram No. 12 to His Majesty's Ambassador, and to enquire whether an agreement existed between them in the sense of the communication made by the Spanish Ambassador in London. M. Dupeyrat at once stated that this was not the case. He explained that on the 1st instant he had had a private and confidential conversation with M. Hontoria and M. Padilla, in the course of which he had offered to endeavour to discover some means of arriving at a compromise which would conciliate the conflicting views. He had not, he said, agreed to the maintenance of the consular jurisdiction to the extent at present proposed, but had contemplated an enlargement of the list of matters within the competence of the international tribunal; and he had certainly not consented, and would not consent, to the appointment of a Spaniard as "avocat du Gouvernement" unless the Spanish Government considerably modified their present attitude in regard to the criminal jurisdiction of their Consular Court. He had, moreover, distinctly stated that he would not accept any proposal as to the maintenance of consular jurisdiction, which did not meet with my approval, as he considered himself bound by his agreement with us in this respect.

After some discussion between M. Dupeyrat and M. Padilla as to what had passed at the meeting of the 1st instant, the note annexed hereto was drawn up by agreement between them, stating what had actually passed at the meeting in question.

[1613]

As M. Dupeyrat had expressed annoyance at a private and confidential conversation having been used for the purposes of an official communication to His Majesty's Government, M. Padilla therefore this morning communicated to us the actual text of the telegram sent by the Minister of State to the Spanish Ambassador in London. I transmit herewith a translation of this telegram.

M. Dupeyrat subsequently informed me that he had been convinced that the Spanish Government would never agree to the total suppression of the consular jurisdiction, as they had imprudently consulted the Spanish chamber of commerce at Tangier, the Spanish lawyers there, and other bodies at that place and at Cadiz, and they had all very strongly insisted upon the necessity of maintaining their Consular Court with full jurisdiction in both civil and criminal matters. He had, therefore, desired to arrive at a compromise by reducing as far as possible the criminal jurisdiction of the Consular Courts and satisfying Spain by giving her two judges on the international tribunal and the post of "avocat du Gouvernement."

M. Dupeyrat did, on the 1st instant, mention to me the suggested compromise, but I understood from him that it was merely an offer of M. Hontoria, and I told him that I could not accept it. Though I realised that it might at the end be necessary to yield to some extent in the matter of jurisdiction, I did not wish to let even M. Dupeyrat know that I might do so until all efforts to induce Spain to accept the entire abolition of the Consular Courts had proved unavailing. I fear M. Dupeyrat's action in expressing his willingness to agree to a certain amount of jurisdiction being left to the consuls will make it still more difficult for me to succeed in obtaining the total suppression of Consular Courts, which I consider so desirable.

H. E. W.

Madrid, May 7, 1913.

Enclosure 2 in No. 106.

Note drawn up by M. Dupeyrat and M. Padilla.

M. DUPEYRAT est toujours d'opinion qu'il y a un intérêt général, en vue du bon fonctionnement de la justice à Tanger à la suppression aussi complète que possible de la juridiction consulaire, tant en matière pénale qu'en matière civile. D'autre part, il n'a pas cessé de déclarer qu'il considère comme engagé sans réserve aucune à soutenir la thèse anglaise devenue anglo-française par l'acceptation du Gouvernement de la république. Il pense toutefois que si les deux Gouvernements britannique et espagnol sont définitivement décidés à maintenir leurs points en vue de principes opposés, il reste désirable de rechercher s'il n'est pas possible de trouver une formule d'application pratique qui les concilie. Dans une conversation générale privée entre lui et MM. Hontoria et Padilla, il s'est déclaré disposé à servir d'intermédiaire pour cette recherche; il a, en conséquence, demandé qu'elle était la composition la plus conciliante du tribunal international que l'Espagne était disposé à accepter, afin qu'il pût en entretenir Mr. White et voir à quelle condition en matière de compétence celui-ci pourrait s'y rallier. La formule que M. Hontoria a proposée est celle qui est indiquée dans le télégramme. M. Dupeyrat était d'accord sur cette formule si Mr. White était disposé à l'accepter, mais toujours sous condition d'acceptation des demandes que ferait Mr. White en matière de juridiction dans le sens de l'élargissement des attributions du tribunal international. Sa conversation ayant démontré que Mr. White ne pouvait pas renoncer à la suppression de la compétence consulaire, M. Dupeyrat a conclu qu'il n'y avait pas place à transaction, et en a aussitôt avisé M. Padilla (le 1^{er} mai). Dans ces conditions M. Dupeyrat s'en tient donc à ses déclarations faites d'accord avec Mr. White aux réunions.

Enclosure 3 in No. 106.

Literal Translation of Telegram from the Spanish Minister of State to the Spanish Ambassador in London.

FRENCH delegate has come to an agreement with ours that Tangier Tribunal should be composed of a French president and one judge, an English vice-president (whose mission it would be to take the place of the president and of the "fiscal" ("avocat du Gouvernement") when absent or prevented from attending), two Spanish

judges, two judges of other nationalities, and a Spanish "fiscal." French delegate would accept that consular criminal jurisdiction should remain, except, of course, as regards infractions of municipal regulations. This formula of compromise should be urgently recommended by your Excellency to that (British) Government, with the request that they should send instructions to their delegate to support it.

Madrid, May 1, 1913.

[21294]

No. 107.

Sir Edward Grey to Mr. Kennard.

(No. 96.)

Sir,

Foreign Office, May 13, 1913.

I HAVE received from the Spanish Embassy in London a communication similar to that enclosed in your despatch No. 130 of the 1st instant, announcing the appointment of Mulai Melidi as Khalifa of the Spanish zone, and of General Alfán as Spanish High Commissioner, and I enclose a copy of the note in which I have acknowledged the receipt of this information. You should address a letter in similar terms to your Spanish colleague.

With regard to the letter sent to you, as reported in your telegram No. 24 of the 11th instant, by the Moorish Commissioner for Foreign Affairs, notifying the arrival of the Khalifa in the Spanish zone at his post, I am of opinion that no acknowledgment of its receipt should be made, since His Majesty's Government have not yet recognised the French Protectorate, and cannot therefore take official notice of communications sent on behalf of the Resident-General as Minister for Foreign Affairs to the Sultan. This attitude accords with the position of His Majesty's Government as defined in my note to the French Ambassador of the 20th January last.

I am, &c.

E. GREY.

[20639]

No. 108.

Foreign Office to Board of Trade.

(Confidential.)

Sir,

Foreign Office, May 13, 1913.

I AM directed by Secretary Sir E. Grey to transmit to you herewith, to be laid before the Board of Trade, a copy of the correspondence,* regarding a proposal that a concession shall be granted at an early date for the construction and exploitation of port works at Tangier.

There is, among those best qualified to judge, a general consensus of opinion, which is fully shared by the Secretary of State, that the early construction of a modern harbour is imperative for the proper development of the international zone, and, in view of the considerations advanced in Mr. White's despatch of the 30th April last, it is a point for consideration whether His Majesty's Government should not waive the objections which they have hitherto entertained to the port works being begun before the establishment of the Tangier Municipality, provided that the position and rights of the municipality are adequately safeguarded.

It also appears to Sir E. Grey very probable that it will be necessary to grant a concession for the construction of the harbour and for the rights of exploitation, as the international administration will, on coming into being, have neither revenues nor credit available for financing a work of such magnitude.

In these circumstances it remains for His Majesty's Government to decide whether they should urge that the concession to be granted shall be made open to public tender, or whether they should agree to its being given to a selected syndicate, such as the subsidiary company formed by the Société marocaine de Travaux publics. It may be observed in this connection that experience has shown that it is exceedingly difficult for British firms to compete in opposition to French companies in Morocco, and that it may therefore be advisable to grant the concession to a company in which British

* To Sir M. de Bunsen, No. 19 (not printed); Sir M. de Bunsen, No. 49; Mr. Norton, March 28; to Mr. Norton, April 3 (not printed); to Mr. White, April 7 (not printed); Mr. White, April 30, 1913 (not printed).

capital is represented to the extent of twenty per cent., rather than to put it up to tender and run the risk of some company without any British capital obtaining it.

I am to request that you will move the Board of Trade to take the matter into their consideration, and to favour Sir E. Grey with an expression of their views as to the attitude which should be adopted by His Majesty's Government. As the question is one of some urgency, Sir E. Grey would be grateful for a reply at the Board's early convenience.

I am to add that the Secretary of State proposes to ascertain confidentially whether firms of contractors of the standing of Messrs. Pearson and Messrs. Jackson would be willing to undertake a work which involves the locking up of capital in exploitation for, at the soonest, some years after construction has been completed.

I am, &c.
W. LANGLEY.

[22097]

No. 109.

Sir M. de Bunsen to Sir Edward Grey.—(Received May 14.)

(No. 88.)
Sir,

Madrid, May 10, 1913.

IN the enclosed further memorandum, Mr. White forwards the *procès-verbaux* of the 33rd to the 39th meetings of the Mixed Tangier Commission, relating to the gambling question, protection of natives, powers of the municipality, passage of convoys, and other matters.

I have, &c.
(For the Ambassador),
MERVYN HERBERT.

Enclosure 1 in No. 109.

Memorandum by Mr. White.

THE question of gambling was discussed at the 34th and 35th meetings of the Mixed Commission, the subject being again referred to at the 36th and 37th meetings.

The delegates were of opinion that, whilst it was desirable to prevent Tangier developing into a second Monte Carlo, one could not adopt more stringent measures than those applied at the generality of watering-places in France, Spain, and other European countries. To have absolutely prohibited gambling in any form would probably give rise to the establishment of secret gambling dens, and would also cause considerable discontent at Tangier, where many people look to the establishment of a casino as a source of revenue, direct and indirect, for the town. It was therefore decided to reserve to the Municipal Assembly, with the approval of the Committee of Control, by a three-quarters majority vote, the power to authorise the establishment of a casino, where gambling within strictly defined limits would be permitted.

Unfortunately, gambling cannot be effectively dealt with in the Criminal Code, unless Spain consents to surrender the criminal jurisdiction of her Consular Court. It is therefore necessary to leave it to the municipality to make regulations on the subject. We have, however, laid down certain general principles, which must be embodied in any such regulations that may be framed by the municipality.

M. Padilla, at the 37th meeting, proposed that protection be abolished in the international zone, and that the Powers should undertake not to grant any further protections in the meantime. I pointed out that the principle of the abolition of protection at Tangier had already been accepted by the Mixed Commission, and I stated that I was of opinion that effect should be given to it as soon as the International Tribunal was established. This was agreed to. With regard to the grant of protection in the meantime, I observed that, personally, I should be glad to see the proposal adopted by all the Powers, but that the matter was beyond our province. M. Dupeyrat agreed, but thought the reference to the other Powers inopportune, as they would not be likely to agree without knowing what arrangements we were making; the request, he feared, might give some of them an opening for making inconvenient enquiries on the subject.

The 36th to the 39th meetings were otherwise devoted to defining the powers of the Municipal Assembly and its relations with the Committee of Control. M. Dupeyrat strongly urged that the former body should only hold four ordinary sessions a-year, the conduct of affairs being in the meantime entrusted to the chief executive officer and the heads of the various departments. M. Padilla, on the other hand, was in favour of the Municipal Assembly being in permanent session, meeting once a-week or oftener. I recommended the middle course of ordinary sessions being held once a month, as at Alexandria, each session lasting so long as may be necessary for the transaction of the business in hand. This proposal was eventually adopted, though M. Dupeyrat maintained his preference for quarterly sessions, fearing that our decision would have a bad effect, as leading to a waste of time in oratory. Arrangements were made for the holding of extraordinary sessions when necessary.

The articles that have been framed to regulate the control of the Municipal Assembly by the Committee of Control are very similar to those drawn up by M. Guiot and me at San Sebastian last year, as also are those regarding the preparation of the budget. They will be found in the *procès-verbaux* of the 37th, 38th, and 39th meetings.

At the 39th meeting an article was adopted, corresponding to the 9th article of the Franco-Spanish Convention, providing for the passage of convoys, &c., through the international zone. I have obtained the addition of a paragraph limiting the application of the article as far as possible.

The *procès-verbaux* of the last seven meetings, to the 39th inclusive, are transmitted herewith.

H. E. W.

Madrid, May 7, 1913.

Enclosure 2 in No. 109.

Procès-verbal of Thirty-third Meeting of Tangier Mixed Commission, held April 29, 1913.

LA Commission mixte d'internationalisation de Tanger s'est réunie au Palais du Ministère d'État, le mardi, 29 avril, 1913, à 10 heures et demie du matin.

Le *procès-verbal* de la précédente séance est adopté.

La Commission procède à une revision des diverses questions demeurées en suspens. Ces questions sont celles qui concernent notamment :—

1. Le chef du pouvoir exécutif.
2. L'exercice de la liberté des cultes.
3. Le contrôle de la dette.
4. La compétence et la composition du tribunal international.
5. Protection des indigènes tangérois à l'étranger.
6. Surveillance de la contrebande dans les eaux de Tanger.
7. Application en zone internationale des traités qui seraient, dans l'avenir, conclus par le Gouvernement marocain.
8. La nomination du *cadi* et du *nadir*.
9. La revision des codes de Tanger.

La Commission, après échange de vues, renvoie la suite de la discussion à une prochaine réunion.

La séance est levée à 1 heure et demie.

Enclosure 3 in No. 109.

Procès-verbal of Thirty-fourth Meeting of Tangier Mixed Commission, held April 30, 1913.

LA Commission mixte d'internationalisation de Tanger s'est réunie au Palais du Ministère d'État, le mercredi, 30 avril, à midi et demie.

Le *procès-verbal* de la précédente séance est adopté.

M. Dupeyrat demande que les jeux de hasard soient interdits à Tanger.

[1613]

3 E

Toutefois, et par dérogation à ce principe, la municipalité pourra accorder aux cercles et casinos l'autorisation d'ouvrir au public des locaux spéciaux, distincts et séparés, où seront pratiqués certains jeux de hasard, sous les conditions ci-après :—

1. Les seuls jeux de hasard qui pourront être autorisés sont :

- (1.) Le baccara à deux tableaux ;
- (2.) Le jeu des petits chevaux et ses variétés.

2. Les autorisations seront accordées par le chef de l'Administration municipale, après enquête favorable, et en considération d'un cahier des charges établi par l'Assemblée municipale et approuvé par le Comité de Contrôle.

3. L'arrêté d'autorisation fixe sa durée ; il déterminera la nature des jeux autorisés, leur fonctionnement, les mesures de surveillance et de contrôle des agents de l'autorité, les conditions d'admission dans les salles de jeux, les heures d'ouverture et de fermeture, le taux et le mode de perception du prélèvement ci-dessous prévu.

4. L'autorisation peut être révoquée par l'Administration municipale en cas d'inobservance du cahier des charges ou des clauses de l'arrêté de concession.

La révocation pourra être demandée par l'Assemblée municipale ou le Comité de Contrôle au chef de l'Administration municipale, qui devra statuer dans le délai d'un mois. En cas de refus de celui-ci, un recours pourra être exercé devant le tribunal international.

5. En aucun cas le retrait des autorisations ne pourra donner lieu à une indemnité quelconque.

6. Tout établissement de jeux fonctionnant avant la mise en vigueur des présents dispositions, quelles que soient l'époque et les conditions de son ouverture, aura un délai de deux mois pour se pourvoir d'une autorisation régulière, faute de quoi il sera fermé.

7. Tout établissement, cercle ou casino, autorisé qu'il soit ou non organisé en société, aura un directeur et un comité de direction responsables dont les noms, professions, domiciles, devront être dans tous les cas, portés à la connaissance de l'Administration municipale par une déclaration faite au secrétariat de celle-ci.

Le directeur et les membres du comité devront être majeurs et n'avoir subi aucune des condamnations privatives du droit électoral à Tanger.

8. Les directeurs et les membres du comité de direction ne pourront, en aucun cas, se substituer un fermier des jeux.

9. Indépendamment des conditions imposées par le cahier des charges, un prélèvement de 15 pour cent sera opéré sur le produit brut des jeux, au profit des œuvres d'assistance de prévoyance ou d'hygiène de la zone internationale.

10. Les infractions aux dispositions ci-dessus et aux règlements municipaux près pour leur application seront justiciables du tribunal international quelle que soit la nationalité des délinquants.

La Commission après discussion générale, adopte le principe de l'interdiction et, pour le surplus, ajourne les questions d'applications et d'exceptions à autoriser à une prochaine séance.

La séance est levée à 1 heure trois quarts.

Enclosure 4 in No. 109.

Procès-verbal of Thirty-fifth Meeting of Tangier Mixed Commission, held May 2, 1913.

LA Commission mixte d'internationalisation de Tanger s'est réunie au Palais du Ministère d'État, le vendredi, 2 mai, à 10 heures et demie.

Le procès-verbal de la précédente séance est adopté.

Mr. White émet l'avis, au sujet de la proposition de M. Dupeyrat relative aux jeux, que l'interdiction absolue serait désirable, mais reconnaît qu'il serait peut-être difficile d'imposer à Tanger un régime plus sévère que celui qui est appliqué dans la plupart des pays d'Europe. Dans ces conditions il estime qu'on pourrait s'en tenir à interdire en règle générale les jeux de hasard et les loteries tout en laissant à la municipalité le pouvoir d'accorder des autorisations exceptionnelles conformément à une réglementation établie par elle.

Mr. White fait, d'autre part, observer que tant que l'Espagne persistera à garder sa juridiction consulaire en matière répressive, le Code pénal tangerois ne s'appliquera

pas aux étrangers ; qu'il s'ensuit que seuls des règlements municipaux pourront utilement établir et sanctionner le régime des jeux de hasard ; qu'il suffira que la Commission précise les conditions générales suivant lesquelles la municipalité sera qualifiée pour faire la réglementation prévue.

M. Dupeyrat répond qu'il est d'accord avec Mr. White et que sa proposition a précisément ce but.

M. Padilla s'associe à l'observation de M. Dupeyrat.

La Commission, passant à l'examen du texte présenté par le délégué français, ne juge pas nécessaire de définir ce qui devra être considéré comme jeux de hasard, ce soin revenant au tribunal international lors des poursuites éventuelles. Elle estime, par contre, nécessaire d'énumérer ceux des jeux de hasard que la municipalité pourra autoriser.

La Commission décide :

Les autorisations seront accordées par le chef de l'Administration municipale, après enquête favorable et en considération d'un cahier des charges établi par l'Assemblée municipale et approuvé par le Comité de Contrôle à une majorité des trois quarts.

Le paragraphe 3 est adopté avec addition des mots "le maximum des enjeux" après les mots "leur fonctionnement."

Paragraphe 4, adopté sous cette réserve que son second alinéa sera ainsi rédigé :—

"La révocation d'autorisation pourra être également prononcée, en cas d'inaction de l'Administration municipale, par le tribunal international sur la demande motivée de tout électeur tangerois."

Paragraphe 5. Adopté.

Paragraphe 6. Adopté.

Paragraphe 7. Adopté.

Paragraphe 8. Adopté.

Paragraphe 9. Adopté, avec addition des mots "d'instruction" après le mot "assistance."

Le maintien de paragraphe 10 est jugé inutile, le principe dont il s'inspire ayant été adopté au cours des 30 et 31 séances de la Commission mixte.

La séance est levée à 1 heure et demie.

Enclosure 5 in No. 109.

Procès-verbal of Thirty-sixth Meeting of Tangier Mixed Commission, held May 3, 1913.

LA Commission mixte d'internationalisation de Tanger s'est réunie au Palais du Ministère d'État, le samedi, 3 mai, 1913, à 10 heures et demie.

Le procès-verbal de la précédente séance est adopté.

La Commission arrête ainsi qu'il suit la liste des jeux de hasard qui pourront être autorisés :—

1. Le baccara à deux tableaux et le baccara chemin de fer ;
2. Le jeu des petits chevaux et ses variétés ;
3. Les loteries de bienfaisance, sans que toutefois elle puissent comporter des lots en argent.

Fonctionnement et Attributions de l'Assemblée municipale.

Mr. White propose l'article suivant :—

"1. L'Assemblée municipale s'assemblera de droit en session ordinaire une fois par mois, et en session extraordinaire toutes les fois que son président le jugera nécessaire, ou que douze de ses membres en auront fait la demande par écrit.

"En cas de session extraordinaire, l'Assemblée municipale ne peut s'occuper que des objets pour lesquels elle a été convoquée."

M. Padilla aurait préféré que l'Assemblée fût permanente, mais se rallie néanmoins à la proposition de Mr. White.

M. Dupeyrat estime que quatre sessions ordinaires par an et la possibilité de sessions extraordinaires auraient mieux assuré le bon fonctionnement du régime municipal. Il ne s'oppose pas toutefois à l'adoption de la proposition de Mr. White.

"2. L'Assemblée municipale fera son règlement intérieur dès son installation et au plus tard dans un délai de trois mois. Ce règlement sera soumis à l'approbation du Comité de Contrôle. Dans l'intervalle le règlement provisoire ci-annexé sera appliqué."

Adopté.

"3. Lorsqu'une délibération intéresse un des services municipaux le chef de ce service devra être entendu avant le vote."

Adopté.

"4. Tout membre de l'Assemblée municipale qui aura manqué, sans excuse valable acceptée par elle, à deux sessions ordinaires consécutives, peut, après avoir été admis à fournir des explications, être déclaré démissionnaire par l'Assemblée municipale."

Adopté.

"5. Copie de toutes les délibérations de l'Assemblée municipale est transmise au Comité de Contrôle, en double expédition, par les soins du président de l'Assemblée."

Adopté.

"6. Doivent être immédiatement annulées les délibérations :

- "(1.) Prises en violation de la loi ou des traités ;
- "(2.) Portant sur un objet étranger aux attributions de l'Assemblée municipale ou prises hors de ses réunions légales ;
- "(3.) Celles auxquelles auraient pris part des membres de l'Assemblée municipale intéressés, personnellement ou comme mandataire, à l'affaire en fait l'objet."

Adopté.

La séance est levée à 2 heures.

Enclosure 6 in No. 109.

Procès-verbal of Thirty-seventh Meeting of Tangier Mixed Commission, held May 5, 1913.

LA Commission mixte d'internationalisation de Tanger s'est réunie au Palais du Ministère d'État, le lundi, 5 mai, à 10 heures et demie du matin.

Les procès-verbal de la précédente séance est adopté.

M. Padilla remarque, à cette occasion, qu'il ne résulte pas des décisions prises au cours des deux dernières séances que la vente des billets de la loterie d'État espagnole continuera à s'exercer librement à Tanger comme par le passé. Il entend, cependant, que l'installation de la municipalité ne puis pas modifier l'état des choses actuel.

Mr. White et M. Dupeyrat répondent qu'en effet il n'a pas été dans leur pensée d'autoriser en zone internationale la vente des billets d'une loterie étrangère quelconque, espagnole ou non : toutes les loteries d'argent sont interdites par le texte adopté.

M. Padilla déclare qu'il n'admet pas que la liberté de vente des billets de la loterie espagnole, qui a existé depuis longtemps à Tanger, soit à présent interdite.

Mr. White et M. Dupeyrat répliquent qu'on ne saurait, en posant le principe d'interdiction des loteries, imposer à la municipalité une exception en faveur de la loterie espagnole. Et, d'autre part, il faut bien observer que si les loteries n'étaient pas interdites la municipalité serait conduite tout naturellement à ne les admettre qu'au profit de son propre budget.

M. Padilla propose qu'en établissant l'organisation municipale, toute protection étrangère des ressortissants marocains soit supprimée à Tanger comme incompatible avec le bon fonctionnement de la municipalité ; et il fait connaître qu'en attendant la mise en vigueur du nouveau statut son Gouvernement s'est adressé à titre officieux à ceux des autres Puissances signataires de la Convention de Madrid, leur demandant s'ils ne seraient pas disposés à surseoir à l'octroi de nouvelles protections en zone municipale.

Mr. White répond qu'en ce qui concerne l'abolition en zone internationale, son Gouvernement, ainsi qu'il ressort de ses mémorandums et des procès-verbaux des séances

de la Commission mixte, a toujours désiré la suppression de la protection en zone internationale à aussi bref délai que possible, c'est-à-dire, en fait, dès l'installation du tribunal international. Il va sans dire que les intérêts de ses protégés tangérois dans le reste du Maroc continueront à être sauvegardés par les soins de ses représentants jusqu'à abolition de la protection en zone française et espagnole.

Quant à la demande de M. Padilla, qu'il ne soit plus créé dès à présent de nouveaux protégés, Mr. White estime que la Commission n'est pas qualifiée pour prendre une décision ; il ajoute à titre personnel qu'il serait heureux si un accord immédiat et général entre les Puissances intéressées pouvait intervenir, mais que, dans le cas contraire, le Gouvernement britannique ne saurait se priver prématurément d'un droit que les autres Gouvernements conserveraient.

M. Dupeyrat s'associe d'une façon générale à la réponse de Mr. White. Il croit devoir seulement rappeler à son collègue britannique que l'abolition de la protection en zone française a été considérée par le Gouvernement de la république, ainsi qu'il résulte de ses communications au Foreign Office, comme une conséquence logique et naturelle de la dite suppression en zone internationale.

Mr. White explique que c'est justement pour cette raison qu'il a employé, à la fin de sa déclaration, les mots "jusqu'à abolition de la protection en zone française et espagnole."

La Commission reprend l'examen des attributions et du fonctionnement de l'Assemblée municipale. Elle décide :—

"7. Ne sont exécutoires qu'après avoir été expressément approuvées par le Comité de Contrôle les délibérations portant sur les matières ci-après :

- "(1.) Le budget et tous crédits supplémentaires ;
- "(2.) Le déclassement, l'échange ou la vente d'une partie du domaine public ;
- "(3.) Les emprunts ;
- "(4.) Les contrats engageant les finances municipales pour une durée supérieure à celle du mandat de l'Assemblée municipale, en exercice ou pour une somme dépassant 50,000 fr. ;
- "(5.) L'acceptation des dons et legs ;
- "(6.) Règlement intérieur de l'Assemblée municipale et modifications de ce règlement ;
- "(7.) Règlements administratifs ou de police ;
- "(8.) Délégations de pouvoirs municipaux à des tiers ;
- "(9.) Création de nouvelles taxes et modification de taxes existantes.

"La majorité requise au Comité de Contrôle pour l'approbation des déclassements, vente ou échange de parties du domaine public existant au moment de l'institution de la municipalité, est des cinq sixièmes au moins des membres du Comité.

"La majorité requise au Comité de Contrôle pour l'approbation des emprunts est des deux troisièmes des membres du Comité."

La séance est levée à 1 heure un quart.

Enclosure 7 in No. 109.

Procès-verbal of Thirty-eighth Meeting of Tangier Mixed Commission, held May 6, 1913.

LA Commission mixte d'internationalisation de Tanger s'est réunie au Palais du Ministère d'État, le mardi, 6 mai, 1913, à 10 heures et demie.

Le procès-verbal de la précédente séance est adopté.

La Commission adopte les articles suivants relatifs au fonctionnement de l'Assemblée municipale :—

"8. Toutes délibérations non comprises dans l'énumération ci-dessus, à moins de dispositions contraires ailleurs insérées, seront exécutoires de plano si le Comité de Contrôle n'en a pas suspendu l'exécution dans les huit jours de la communication faite à son président.

"An cas de suspension ainsi prononcée, le veto définitif du Comité de Contrôle devra, s'il y a lieu, être notifié à l'Assemblée municipale dans les trente jours suivants, faute de quoi la délibération sera exécutoire.

La Commission mixte décide de compléter l'article précédemment voté au sujet de la transmission des délibérations (article 5, 36^e séance) en fixant à trois jours le délai de cette transmission.

"9. La dissolution de l'Assemblée municipale ne pourra être prononcée que par une décision motivée du Comité du Contrôle, prise à la majorité d'au moins les trois quarts de ses membres. Elle devra, autant que les circonstances le permettront, être précédée d'un avertissement.

"10. En cas de dissolution, les fonctions de l'Assemblée municipale seront remplies par une Commission provisoire de douze membres, dont un de chaque nationalité, élue par le Comité de Contrôle à la majorité d'au moins les trois quarts de ses membres.

"11. De nouvelles élections devront avoir lieu dans un délai de deux mois."

La séance est levée à 2 heures.

Enclosure 8 in No. 109.

Procès-verbal of Thirty-ninth Meeting of Tangier Mixed Commission, held May 7, 1913.

LA Commission mixte d'internationalisation de Tanger s'est réunie au Palais du Ministère d'État, le mercredi, 7 mai, 1913, à 10 et demie.

Le procès-verbal de la précédente séance est adopté.

La Commission mixte adopte l'article suivant précédemment réservé:—

"Article . Aussi longtemps que le chemin de fer Tanger-Fez ne sera pas construit, il ne sera apporté aucune entrave au passage des convois de ravitaillement destinés au Makhzen, ni aux voyages des fonctionnaires chérifiens ou étrangers entre Fez et Tanger et inversement, non plus qu'au passage de leur escorte qui ne dépassera pas le nécessaire, de leurs armes et bagages, étant entendu que les autorités de la zone traversée auront été préalablement avisées. Aucune taxe ni aucun droit spécial de transit ne pourra être perçu pour ce passage.

"Après la construction du chemin de fer Tanger-Fez celui-ci pourra être utilisé pour ces transports.

"Les deux Gouvernements protecteurs des deux autres zones du Maroc s'engagent à n'user de la faculté ci-dessus spécifiée à leur profit qu'en cas de nécessité réelle et pendant le délai strictement nécessaire à la mise en route ou aux opérations de transbordement; en aucun cas le délai ne devra dépasser quarante-huit heures pour une troupe armée."

Sont adoptés les articles suivants pour la préparation et le vote du budget:—

"Article . L'Assemblée municipale délibère sur le budget, les recettes et les dépenses ordinaires ou extraordinaires, et, en général, sur toutes les questions qui intéressent la zone internationale.

"Avant le 15 octobre de chaque année l'Assemblée municipale vote un projet de budget de recettes et dépenses, par chapitres et articles, pour l'exercice de l'année suivante.

"Ce projet de budget n'est rendu définitif et applicable qu'après approbation par le Comité de Contrôle.

"Article . Le Comité de Contrôle s'assure que les dépenses prévues ne dépassent pas les recettes et peut prendre les dispositions nécessaires pour arriver à ce résultat. Il s'assure également qu'il est pourvu aux dépenses obligatoires et les inscrit d'office, s'il y a lieu, comme il est dit à l'article . Il s'assure enfin que les crédits et les dépenses inscrits au budget ont été établis régulièrement, et fait, le cas échéant, les rectifications nécessaires. Les crédits relatifs à des projets non encore approuvés ne pourront, en tous cas, être arrêtés qu'à titre provisoire et ne deviendront définitifs qu'après la passation des marchés correspondants.

"Article . Le budget une fois arrêté par le Comité de Contrôle devient exécutoire pour l'exercice auquel il s'applique. Il est notifié au chef de l'Administration municipale.

"Article . Dans le cas où, pour une cause quelconque, le budget municipal ne serait pas exécutoire au commencement de l'exercice auquel il doit s'appliquer, les recettes et les dépenses ordinaires continuent, jusqu'à ce que le nouveau budget soit

devenu exécutoire, à être effectuées conformément au budget de l'année précédente.

"Article . Les crédits ouverts pour les dépenses de chaque exercice ne peuvent être employés à l'acquittement des dépenses d'un autre exercice.

"Toutefois, la durée de la période pendant laquelle doivent se consommer les faits de dépense se prolonge jusqu'au 15 février pour achever, dans la limite des crédits ouverts à l'exercice précédent, les fournitures et travaux dont l'exécution n'aurait pu, d'après une déclaration motivée du chef de service intéressé joint au mandat de paiement, être terminée avant la fin dudit exercice.

"Article . Les dépenses ne peuvent être acquittées que sur les crédits affectés à chacune d'elles, et ces crédits ne peuvent être employés à d'autres dépenses.

"Tout dépassement de crédit est interdit.

"Article . Les rôles de taxes municipales sont établis en conformité des règlements spéciaux qui régissent chacune d'elles. Ils ne peuvent être mis en recouvrement avant d'avoir été rendus exécutoires par l'autorité désignée à cet effet.

"Le chef de l'Administration municipale informe les contribuables, par voie d'affiches, de la mise en recouvrement des rôles. Des avis gratuits indiquant le relevé détaillé des impositions conformément aux rôles sont envoyés par le receveur municipal à chaque contribuable.

"Ce relevé comprend:

"1. L'article du rôle ou le titre de perception;

"2. Le montant de la perception;

"3. Les échéances des paiements.

"L'avis indiquera, en outre, le délai dans lequel les réclamations doivent être formulées et l'autorité devant laquelle elles doivent être présentées.

"Article . Les recettes encaissées par le receveur municipal sont intégralement versées par lui, chaque semaine, à la Banque d'État du Maroc.

"L'état des prévisions budgétaires de la municipalité est établi pour une période de douze mois, commençant le 1^{er} janvier et finissant le 31 décembre de chaque année, à moins que l'Assemblée municipale et le Comité de Contrôle n'aient reconnu la nécessité de fixer à d'autres dates le commencement et la fin de l'année financière.

"Le budget est divisé en recettes et dépenses ordinaires et extraordinaires.

"Les recettes ordinaires sont celles qui proviennent des taxes et impôts dont la perception est régulièrement autorisée à titre permanent, ainsi que des produits et revenus ordinaires du domaine public et du domaine municipal privé ou des redevances dues par les concessionnaires de la municipalité.

"Les recettes extraordinaires sont:

"1. Le produit d'aliénation des biens du domaine;

"2. Le produit des dons et legs;

"3. Le produit des emprunts, avances et subventions;

"4. Le produit de toutes autres recettes accidentelles.

"Article . Les dépenses du budget ordinaire comprennent les dépenses annuelles et permanentes d'utilité municipale.

"Les dépenses du budget extraordinaire comprennent les dépenses temporaires et accidentelles.

"Article . Les dépenses ordinaires énoncées à l'article précédent, ainsi que le montant des condamnations judiciaires qui pourraient être prononcées contre la municipalité sont obligatoires, toute autres dépenses sont facultatives.

"Si l'Assemblée municipale ne vote pas les dépenses obligatoires, ou si elle ne vote que des sommes insuffisantes pour assurer les services, les allocations nécessaires sont inscrites d'office au budget par une décision du Comité de Contrôle.

En cas de travaux accidentels ayant un caractère d'urgence, si l'Assemblée municipale ne prend pas les mesures d'exécution nécessaires, le Comité de Contrôle peut y faire procéder d'office, et inscrire la dépense au budget.

"Dans le courant du premier trimestre de chaque exercice, les comptes de l'exercice clos, dûment vérifiés par les experts à ce désignés par le Comité de Contrôle, sont soumis, avec tous développements et explications nécessaires, à l'approbation de l'Assemblée municipale et du Comité de Contrôle.

"Les comptes une fois approuvés sont rendus publics par voie d'insertion au 'Bulletin officiel' des actes de la municipalité."

La séance est levée à 1 heure 5 minutes.

[22249]

No. 110.

Sir M. de Bunsen to Sir Edward Grey.—(Received May 15.)

(No. 89.)

Sir,

Madrid, May 12, 1913.

WITH reference to your telegram No. 12 of the 5th May, I regret that I can report no progress in the direction of inducing the Spanish Government to relinquish at Tangier their consular jurisdiction in penal matters. The enclosed correspondence will show that the Minister of State is determined to retain, at least for the first few years, the jurisdiction of the Spanish Courts, as limited by the concessions already made by the Spanish delegate on the Mixed Commission. The British and French delegates meanwhile maintain their demand for total suppression. In view, however, of the continued refusal of the Spanish Government to concede it, I venture to ask that Mr. White may be authorised to accept in the last resort the best arrangement obtainable, with the assistance of his French colleague. The only alternative, I fear, would be to break off the conference.

I have, &c.

MAURICE DE BUNSEN.

Enclosure 1 in No. 110.

Sir M. de Bunsen to Señor Reverter.

(Translation.)

My dear Minister and friend,

Madrid, May 6, 1913.

IN regard to the question of the judicial system to be established at Tangier, I continue to entertain the hope that the reasons, which I ventured to submit to you in my private letter of the 27th April, and its enclosure, in answer to your letter of the same date, may have seemed worthy to you of being taken into consideration as bearing upon the final decision which the Spanish Government will take on this important question.

Sir Edward Grey telegraphs to me, saying that he agrees not only with my statement, but with that given in greater detail by Mr. White at the meetings of the Mixed Commission in regard to the question in point, but he also desires me to call your attention to it once more, explaining the objections which he sees to allowing the administrative system at Tangier to be complicated by the retention, even though it be partial, of the consular jurisdiction of foreign nations. Sir Edward Grey is confident that, looking at the question from the point of view of the common good of Tangier, you will be quite convinced that it would be more expedient to avoid any period of transition in this matter and to bring to an end, once and for all, a system which is bound logically to disappear from the moment that a tribunal of European judges is established in any given district.

You will no doubt forgive me for having again written to you on this matter, which is of such importance in the eyes of my Government, and I beg you to believe me, &c.

MAURICE DE BUNSEN.

Enclosure 2 in No. 110.

Señor Reverter to Sir M. de Bunsen.

(Translation.)

My dear Ambassador,

Ministry of State, May 10, 1913.

I HAVE considered attentively and in the most friendly spirit your private letter of the 6th May, in which, under instructions from Sir Edward Grey, you urged that the Spanish delegate to the Mixed Tangier Commission should accept the proposal to suppress immediately within the Tangier zone the jurisdiction of the Consular Court in penal matters.

After weighing carefully all the arguments for and against suppression, I am very sorry to be compelled to maintain my point of view.

The situation of Tangier will be unique in the world, and the position of the Spanish colony there will also be a very special one, both in point of numbers (more than double all the foreign colonies put together), and because the majority is composed of the working classes. The fear of the Spanish colony that its interests will not resemble, even remotely those of the other European colonies, composed almost entirely of employers, capitalists, and tourists; the apprehension that this conflict of interests will be further complicated by the national antagonisms which will take some time yet to die out: the consequent anticipation that a tribunal having an international character might not show complete impartiality in dealing with our compatriots—all these are reasons which I submit to you confidentially as those which have determined the Government to postpone their consent to the suppression of consular jurisdiction until, after the lapse of a reasonable number of years, circumstances may permit of their coming to a different conclusion. Public opinion would find much difficulty in approving any deviation on our part from this rule of conduct.

Moreover, the attitude of the Spanish Government on the jurisdiction question is far from uncompromising. They have agreed that the International Court at Tangier shall be competent to deal with civil and commercial questions, and, what is very important, with contraventions, having accepted on this point the opinion of Mr. Brunyate and Mr. White, who thought that otherwise the application of the municipal regulations would lack positive sanction.

I do not believe that after these concessions the British Government, in a spirit of conciliation, can fail to respond to this attitude.

Your sincere friend, &c.

J. NAVARRO REVERTER.

[21039]

No. 111.

Sir Edward Grey to Señor Merry del Val.

Your Excellency,

Foreign Office, May 15, 1913.

YOUR Excellency was good enough to acquaint this department, verbally, on the 2nd instant, with the outlines of an agreement which, according to the information received by your Excellency, had been arrived at by the French and Spanish delegates to the Tangier Conference at Madrid in regard to the judicial appointments under the future municipality, and to the retention by Spain of consular jurisdiction in the international zone for criminal cases other than infractions of the municipal laws, &c.

Since your Excellency at the time expressed the earnest hope of the Spanish Government that the British delegate to the conference might be instructed to accept this settlement on behalf of His Majesty's Government, I have given it my careful consideration, and it is with much regret that I have to inform your Excellency that His Majesty's Government feel that they must adhere to the views on this subject which have already been stated by Sir M. de Bunsen and Mr. White. His Majesty's Government are of opinion that the continued existence of consular Courts, in whatever form, will constitute a serious infringement of the true autonomy of Tangier, and will inevitably hamper the administration of the district. It is, for instance, not unreasonable to expect that the retention of such Courts may lead to difficulties in connection with the police, for either the various Governments must maintain their own police—in which case the powers of the municipal police would be correspondingly limited, and there would be the possible danger of conflicts arising between the two authorities—or else the municipal police must be to some extent under the orders of the several consular officers, thereby subjecting them to a most undesirable divided control.

Moreover, His Majesty's Government feel that the maintenance of consular Courts would do much to foster and keep alive feelings of difference and rivalry between nationalities, and would tend to prevent that fusion into one community which is so much to be desired in the interests of Tangier.

But while holding most strongly to the principle that all consular jurisdiction in the international zone should be abolished, His Majesty's Government fully recognise that the question is one which, owing to the nature of the very numerous Spanish colony in

Tangier, is of special moment to your Excellency's Government, and they are, therefore, ready to support to the full extent of their power any arrangement, such as that of having a Spanish "avocat du Gouvernement" and two Spanish judges on the international tribunal, which will secure to Spain that the administration of criminal justice to her nationals in Tangier will be no less efficient and satisfactory than under a consular régime.

I should add that the above views of His Majesty's Government would remain unaltered even if the French delegate had, as reported to your Excellency, now accepted the retention of consular jurisdiction for criminal cases, but I am informed by His Majesty's Ambassador in Madrid that some misunderstanding must have arisen on this point since M. Dupeyrat's attitude has in fact remained unchanged, and he fully shares the opinion that consular jurisdiction should be entirely abolished. M. Dupeyrat was, it is true, prepared to endeavour to find some compromise between the Spanish and British standpoints, but as his British colleague had not been authorised to adopt a similar course, the matter being one to which His Majesty's Government attach very great importance, M. Dupeyrat has declared that he cannot but continue to support Mr. White on this point.

I have, &c.
E. GREY.

[22249]

No. 112.

Sir Edward Grey to Sir M. de Bunsen.

(No. 15. Confidential.)
(Telegraphic.)

Foreign Office, May 16, 1913.

YOUR despatch No. 89 of 12th May: Tangier consular jurisdiction.

I am sending by post copy of a note to Spanish Ambassador maintaining our view. We cannot break up conference on this point, but must hold out as long as possible in order to confine Spanish jurisdiction to the narrowest limits we can. Mr. White is accordingly authorised in the last resort to accept the best terms he can get.

[22599]

No. 113.

Sir M. de Bunsen to Sir Edward Grey.—(Received May 17.)

(No. 90.)
Sir,

Madrid, May 14, 1913.

I HAVE the honour to forward herewith a memorandum by Mr. White on the proceedings of the Mixed Tangier Commission at its 40th to 44th meetings inclusive.

I have, &c.

MAURICE DE BUNSEN.

Enclosure 1 in No. 113.

Memorandum by Mr. White.

THE question of the mode of appointment of the Kadi and Nadir was settled at the 40th meeting of the Mixed Commission, a compromise being arrived at between the French and Spanish delegates. It has now been arranged that these officials should be elected by the native Mussulman electors, their appointment being subject to the approval of the Khalifa. Should the Khalifa refuse to confirm their appointment, the electors can appeal to the Committee of Control, who can overrule the Khalifa's objection by a three-quarter majority vote. Personally, I prefer the proposal made by M. Dupeyrat and myself at the 6th meeting, but as M. Padilla refused to accept it, and as the new proposal meets one of the requests of the Moorish population, I did not oppose its adoption.

At the 41st and 42nd meetings we discussed the various technical services that would be required, and decided that there should be created separate departments of (1) Public Works, (2) Interior, (3) Finance, and (4) Native Affairs, in addition to the Judiciary.

The Department of the Interior will have the management of the police, prisons,

education, poor relief, public health, and all other matters not assigned to the other departments.

All accounts and financial matters generally will be centered in the Department of Finance, which will prepare the budget and exercise a control over the expenditure in accordance therewith.

The question of Public Works has given rise to prolonged discussions, but no definite decision has yet been arrived at. M. Dupeyrat has insisted that the present service should be maintained by the municipality, declaring that MM. Porché and Llorens have a contract with the Sultan for the whole term of the special tax as well as a separate contract expiring next year in regard to other public works. I stated that I was willing that the municipality should keep on the present service and entrust to it all public works in the international zone, but I suggested that the engagement should be for a fixed period, as I did not wish to bind the municipality indefinitely. I have no doubt that it will be possible to arrive at an agreement on this point.

As the result of private discussions between M. Dupeyrat and myself, we came to an understanding in regard to the treaties and Shereefian decrees which should apply to the international zone without requiring the approval of the Committee of Control, and an article embodying the agreement came to was adopted at the 43rd meeting.

The question of the Makhzen properties also gave rise to prolonged discussions, principally in regard to the wording of the article, M. Dupeyrat objecting to the form adopted at San Sebastian "le domaine public dont le Makhzen fait remise à la municipalité," and still more so to the formula proposed by M. Padilla referring to the "general delegation of the sovereign rights of the Sultan to the municipality." An agreement was finally come to at the 43rd meeting, the word "powers" being substituted for "rights."

The question of the police was dealt with at the 43rd and 44th meetings, and articles of a somewhat vague character were adopted: it was deemed more prudent not to tie the hands of the municipality unduly in this respect, as it may be found necessary to modify the numbers and composition of the police force from time to time as circumstances may require.

The religious monopoly claimed for the Spanish Franciscans and the protection of Tangier Moors in other countries were discussed at the 40th meeting of the Mixed Commission, and have formed the subject of several private conferences between M. Dupeyrat and M. Hontoria. M. Dupeyrat has offered to meet the wishes of Spain on the latter question and in other matters, such as the guarding the coast of the international zone by sea to prevent the smuggling of arms and ammunition, if the Spanish Government will consent to allow Roman Catholic churches to be opened at Tangier, where Franciscan priests of any nationality may officiate, such priests being under the Spanish bishop. No compromise has, however, yet been effected, as the Spanish Government insists on maintaining an absolute monopoly in this respect.

At the 43rd meeting the commission considered the question of the power to be accorded to the municipality to modify the codes, which are to be annexed to the convention. M. Dupeyrat strongly urged that it should be made extremely difficult to introduce any modification, and proposed that none should be permitted unless approved by an absolute majority of the judges. I pointed out that, though we had every confidence in the three gentlemen who are drawing up the codes, it could hardly be expected that they should be so perfect that experience would not show that some modification would be desirable. I entirely shared M. Dupeyrat's view that no modifications should be lightly made, but I considered that sufficient guarantees would be afforded if half of the judges were in favour of the proposed modifications. M. Dupeyrat eventually accepted my suggestion that the Committee of Control could authorise, by a two-thirds majority vote, any modification of the codes proposed by the municipal assembly, unless a majority of the judges disapproved; the effect being that in cases where the judges are equally divided, the Committee of Control can confirm the decision of the municipal assembly. The Committee of Control can also by an unanimous vote overrule the opinion of a majority of the judges.

H. E. W.

Madrid, May 13, 1913.

Enclosure 2 in No. 113.

Procès-verbal of Fortieth Meeting of Tangier Mixed Commission, held May 8, 1913.

LA Commission mixte d'internationalisation de Tanger s'est réunie au Palais du Ministère d'État, le jeudi, 8 mai, 1913, à 10 heures et demie.

Le procès-verbal de la précédente séance est adopté.

LA Commission mixte, pour concilier les points de vue des délégués français et espagnol et s'inspirant du désir exprimé par les envoyés des indigènes marocains, adopte la formule suivante :—

"Le nadir et le cadi de la zone internationale sont élus par le collège électoral indigène. Ces désignations devront être agréées par le Khalifa, qui ne pourra refuser son agrément que par décision motivée. Il ne pourra être passé outre à ce refus que par décision du Comité de Contrôle pris à la majorité des trois quarts de ses membres.

"Le nadir et le cadi exerceront leurs fonctions sous la surveillance dudit Comité, qui seul pourra les en relever par décision motivée, rendue à la majorité des deux tiers des voix et après que l'intéressé sera entendu.

"Le collège électoral des indigènes devra procéder à la nouvelle nomination devenue nécessaire dans le délai de quinze jours à dater de la notification de la décision du Comité de Contrôle faite par le président de ce comité."

M. Dupeyrat insiste pour que la question de l'exercice des cultes à Tanger soit tranchée. Désireux de faciliter une solution dans toute la mesure dépendant de lui, il propose le projet d'article suivant :—

"Les trois Gouvernements s'engagent à faire respecter, dans la zone internationale, la liberté et la pratique extérieure des diverses cultes.

"Le Gouvernement de Sa Majesté le Roi d'Espagne, en ce qui le concerne, ne s'opposera pas, nonobstant les privilèges religieux actuellement exercés par le clergé séculier et régulier espagnol, à ce que des églises et chapelles catholiques existent en zone internationale à l'usage des diverses colonies et soient desservies par des ministres du culte de la nationalité intéressée."

M. Padilla regrette vivement que ses instructions lui interdisent d'entrer dans l'examen d'une question que son Gouvernement considère comme définitivement tranchée dans les négociations relatives à la Convention franco-espagnole du 27 novembre, 1912.

M. Dupeyrat répond qu'il est obligé de faire les plus expresses réserves au sujet de la déclaration de M. Padilla, d'après laquelle la question de l'exercice des cultes à Tanger se trouverait tranchée par le traité du 27 novembre, 1912. Il en référerait à son Gouvernement.

En ce qui concerne la protection des indigènes tangérois et de leurs intérêts à l'étranger, M. Padilla est d'avis qu'elle soit exercée en Espagne par les autorités locales espagnoles et dans les républiques sud-américaines par les consuls d'Espagne.

Il considère en effet qu'il ne serait pas logique que des indigènes tangérois allant en Espagne fussent sous la protection des consuls de France, et que, pour ce qui concerne les républiques sud-américaines, c'est un fait établi que tous les Marocains se font inscrire aux consulats espagnols; il n'y a pas de raison pour que cet état de choses soit modifié pour les indigènes de la zone internationale.

M. Dupeyrat répond qu'aux termes des traités déjà en vigueur, la protection de tous les Marocains et de leurs intérêts à l'étranger appartiennent à la France, sauf l'unique exception prévue à l'article 22 de la Convention du 27 novembre, 1912; que les sentiments d'amitié professés par le Gouvernement de la république à l'égard du Gouvernement de Sa Majesté Catholique permettent de penser qu'il accepterait volontiers d'assimiler, pour la durée de leurs séjours en Espagne, les indigènes tangérois à ceux de la zone espagnole du Maroc; mais qu'il ne croit pas qu'en aucun cas il y ait lieu d'envisager la possibilité d'étendre cette exception aux républiques sud-américaines.

MM. Dupeyrat et Padilla, dans ces conditions, ne peuvent qu'en référer à leurs Gouvernements.

La séance est levée à 1 heure un quart.

Enclosure 3 in No. 113.

Procès-verbal of Forty-first Meeting of Tangier Mixed Commission, held May 9, 1913.

LA Commission mixte d'internationalisation de Tanger s'est réunie au Palais du Ministère d'État, le vendredi, 9 mai, à 10 heures et demie.

Le procès-verbal de la précédente séance est adopté.

Après une discussion générale demeurée sans conclusion sur la question du commissaire-administrateur et sur celle du domaine, la Commission mixte arrête la liste des services publics à prévoir en zone internationale.

Ce sont les suivants :—

Justice.
Travaux publics.
Intérieur.
Finances.
Affaires indigènes.

L'organisation judiciaire ayant fait l'objet d'une étude spéciale, la Commission s'y réfère purement et simplement.

Après un examen général et détaillé de la question des travaux publics, la Commission se réserve d'arrêter un texte d'article dans une prochaine séance.

Il est décidé qu'il y a lieu de prévoir un "Département de l'Intérieur," qui engloberait les services suivants :—

Affaires générales.
Police et prisons.
Enseignement.
Assistance et hygiène publiques.

La séance est levée à 1 heure trois quarts.

Enclosure 4 in No. 113.

Procès-verbal of Forty-second Meeting of Tangier Mixed Commission, held May 10, 1913.

LA Commission mixte d'internationalisation de Tanger s'est réunie au Palais du Ministère d'État, le samedi, 10 mai, 1913, à 10 heures et demie.

Le procès-verbal de la précédente séance est adopté.

Département des Finances.—Le Département des Finances centralise toutes les questions d'ordre budgétaires et de comptabilité, de contributions diverses et de domaine.

Chaque service prépare son budget en motivant ses prévisions de dépenses et en transmet le projet au Département des Finances. Celui-ci examine les propositions de tous les services, les coordonne et établit un projet général de budget, qui est arrêté en conseil des chefs des divers services présidé par le chef de l'Administration municipale.

Le projet définitif de budget des recettes et des dépenses est présenté à l'Assemblée municipale par le chef du Département des Finances au nom de l'Administration municipale. Celui-ci soutient la discussion du budget général des recettes et des dépenses, chaque chef de département ou de service devant soutenir son budget spécial.

Le budget une fois voté et devenu exécutoire, chaque chef de département ordonnance les dépenses de son service, le chef du Département des Finances remplissant le rôle de contrôleur des dépenses engagées.

Un règlement municipal précisera les détails d'exécution.

L'ensemble des services de trésorerie et de perception, sous réserve des droits acquis et du concours prévu par les textes en vigueur du Contrôle de la Dette et de la Banque d'État, sera centralisé dans une "Recette municipale" dépendant du Département des Finances.

La Commission mixte décide que la Municipalité de Tanger devra créer une caisse de prévoyance pour ses agents et employés qui n'appartiendront pas à un cadre

régulier, le personnel administratif ou technique dans leur pays d'origine leur assurant déjà droit à une pension de retraite.

Le règlement municipal d'organisation de cette caisse de prévoyance devra être établi dans un délai de six mois par l'Assemblée municipale, faute de quoi il pourra y être pourvu d'office par le Comité de Contrôle.

La séance est levée à 1 heure un quart.

Enclosure 5 in No. 113.

Procès-verbal of Forty-third Meeting of Tangier Mixed Commission, held May 12, 1913.

LA Commission mixte d'internationalisation de Tanger s'est réunie au Palais du Ministère d'État, le lundi, 12 mai, 1913, à 10 heures et demie du matin.

Le procès-verbal de la précédente séance est adopté.

La question de l'application en zone internationale des traités conclus à l'avenir par le Gouvernement chérifien est réglée de la façon suivante :—

Les accords internationaux conclus à l'avenir par Sa Majesté chérifienne ne s'étendront à la zone internationale qu'avec l'assentiment de la municipalité.

Il en sera de même des décrets rendus par Sa Majesté chérifienne conformément à l'article 5 du Traité franco-marocain du 30 mars, 1912.

Par exception, s'étendront de plein droit à la zone internationale :

1. Les accords internationaux auxquels toutes les Puissances signataires de l'Acte d'Algésiras seront parties contractantes ou auront adhéré ;
2. Tous accords conclus par Sa Majesté chérifienne et étendus à la zone espagnole, conformément à l'article 26 de la Convention du 27 novembre, 1912, et relatifs aux tarifs douaniers ;
3. Tous décrets chérifiens qui s'appliqueront également à la zone espagnole et relatifs :
 - (a.) Au fonctionnement des services postaux et télégraphiques chérifiens avec l'étranger, ainsi qu'à l'unification des tarifs y applicables ;
 - (b.) Au commerce des armes et aux munitions à leur usage ;
 - (c.) A la monnaie ;
 - (d.) Aux conditions de concession et d'exploitation des mines.

A la demande de M. Dupeyrat et M. Padilla, Mr. White accepte d'ajouter les mots "et téléphones interzoniers" au § (c) de la formule insérée au procès-verbal de la 22^e séance.

M. Padilla et M. Dupeyrat déclarent qu'ils ont consenti, par esprit de conciliation, à exclure de l'article ci-dessus adopté plusieurs matières : les impôts d'État, le régime foncier et l'expropriation. Pour la première ils reconnaissent qu'une définition de l'impôt d'État dont le taux devrait être égal pour tout le Maroc serait peut-être difficile à donner ; ils n'insistent donc pas sur ce point. Quant au régime foncier et aux règles applicables à l'expropriation, ils voient une garantie suffisante dans le fait que pour ces deux matières la Municipalité de Tanger recevra une législation toute faite et qui devra être protégée contre des risques de modifications insuffisamment motivées.

La Commission adopte, en ce qui concerne le domaine, la formule suivante proposée par M. Padilla :—

"La délégation générale de pouvoirs fait par Sa Majesté chérifienne à la municipalité comprend l'exercice de tous ses droits sur les biens Makhzen dans la zone internationale.

"Le domaine comprend un domaine public et un domaine privé.

"Le domaine public est composé des rades, fleuves, rivières, routes, rues et places publiques ainsi que des murailles formant l'enceinte de la ville, des forteresses et batteries existant dans les limites de la zone internationale, ainsi qu'en général de tous biens Makhzen. Il est inaliénable tant que le déclassement n'en a pas été prononcé par une décision de l'Assemblée municipale expressément approuvée par le Comité de Contrôle comme il est dit à l'article

"Le domaine privé de la municipalité se composera des immeubles acquis à titre onéreux ou édifiés par elle ou de ceux provenant de dons et legs acceptés dans les conditions précisées par les règlements municipaux et des immeubles du domaine public qui ont été régulièrement déclassés.

"Les biens qui pourraient appartenir personnellement au Sultan sont expressément exclus de sa délégation de pouvoirs et toutes contestations y relatives seront portées devant le tribunal international.

"La municipalité mettra gratuitement à la disposition du Khalifa un immeuble du domaine public convenant à son rang et à sa fonction."

A la demande de Mr. White, il est décidé que les votes du Comité de Contrôle approuvant le déclassement de parties du domaine public n'existant pas encore lors de l'installation de la municipalité, telles que les terrains qui pourront être conquis sur la mer lors de la construction du port, ne seront valablement émis qu'à la majorité des deux tiers des membres. Une addition dans ce sens sera faite à l'avant-dernier paragraphe de l'article 7 inséré au procès-verbal de la 37^e séance.

Police.—La Commission est d'accord pour estimer qu'il y a lieu de constituer à Tanger une police municipale militaire plus spécialement affectée à la sûreté de la partie rurale de la zone internationale et une police municipale civile plus spécialement affectée au maintien de l'ordre dans la ville, l'une et l'autre de ces deux polices étant, dans la mesure nécessaire, les auxiliaires de la justice.

La séance est levée à 1 heure et demie.

Enclosure 6 in No. 113.

Procès-verbal of Forty-fourth Meeting of Tangier Mixed Commission, held May 13, 1913.

LA Commission mixte d'internationalisation de Tanger s'est réunie au Palais du Ministère d'État, le mardi, 13 mai, 1913, à 10 heures et demie.

Le procès-verbal de la précédente séance est adopté.

Suite de l'organisation de la police :

La police municipale militaire, dans la pensée de la Commission, pourrait être formée par un corps de troupe de 500 hommes divisé en deux tabors, l'un à cheval et l'autre à pied, commandés par des officiers européens.

Les tabors actuels continueraient leur service jusqu'à l'achèvement de l'organisation nouvelle.

La police municipale civile pourrait, en outre d'un service de sûreté générale, comprendre une soixantaine d'agents commandés par un commissaire central assisté de deux commissaires.

A Tanger, comme dans toutes les villes de l'Afrique du Nord, le corps des agents devrait être mixte, c'est-à-dire composé d'Européens et d'indigènes.

Modification des Codes et Lois.

Les codes et lois mis en vigueur dans la zone internationale par les actes constitutifs de la municipalité ne pourront être abrogés, complétés ou modifiés que par une décision de l'Assemblée municipale, expressément approuvée par le Comité de Contrôle à la majorité des deux tiers de ses membres après avis motivé du tribunal international.

Si toutefois le tribunal, se prononçant à la majorité réelle des voix, a émis un avis défavorable, l'Assemblée municipale devra procéder à une seconde délibération du projet, et si celui-ci est maintenu, le Comité de Contrôle ne pourra l'approuver qu'à l'unanimité de ses membres.

La séance est levée à 1 heure un quart.

[22097]

No. 114.

Sir Edward Grey to Mr. White.

Sir,

Foreign Office, May 19, 1913.

I HAVE received from Sir M. de Bunsen your memorandum of the 7th instant, together with the minutes of the thirty-third to thirty-ninth meetings of the Tangier Mixed Commission, and I approve your action as reported therein and the various resolutions adopted at those meetings.

I am, &c.

E. GREY.

[23225]

No. 115.

Sir M. de Bunsen to Sir Edward Grey.—(Received May 21.)

(No. 92.)

Sir,

Madrid, May 18, 1913.

I HAVE the honour to forward a further memorandum by Mr. White on the subject of the criminal jurisdiction of the proposed International Court at Tangier. It will be seen that Mr. White doubts the possibility of obtaining further concessions from the Spanish Government on this point.

I have, &c.

MAURICE DE BUNSEN.

Enclosure in No. 115.

Memorandum by Mr. White.

ON the 14th instant I had a long interview with M. Hontoria and exhausted every argument in my endeavour to induce him to consent to the abolition of Consular Courts at Tangier. He admitted the force of my arguments and agreed that it was desirable in the interests of Tangier that the jurisdiction in all matters should be centred in the International Tribunal, but he declared that the Spanish Government could not consent to relinquish their jurisdiction over their large colony and entrust it to an untried tribunal, in the impartiality and competence of which he had no confidence. On my expostulating at this, he replied that, though he would not himself have expressed that opinion in writing, as M. Navarro Reverter had done in his letter to Sir M. de Bunsen, he had no hesitation in telling me privately that the International Tribunal inspired him with no confidence. If after two or three years it was found that the Tribunal was worthy of confidence, the Spanish Government would then be prepared to consent to the abolition of their Consular Court, but to do so now would produce a great outcry, both at Tangier and in Spain. They had, he said, consulted their present and last Ministers and consuls at Tangier, as well as the Courts at Cadiz and Seville, and all had pronounced decidedly against the abolition of their Consular Courts. In the face of this strong expression of opinion by competent persons, it was impossible for the Spanish Government to yield on this point.

M. Hontoria was present at the meetings of the Mixed Commission, held on the 15th instant and to-day, and the opportunity was taken to again discuss this subject. Finding M. Hontoria absolutely inflexible, M. Dupeyrat enquired whether it was not possible to arrive at a compromise by extending the list of matters in which the International Tribunal would have jurisdiction. I replied that my instructions were to strongly insist on the complete abolition of Consular Courts, but that, if it was desired, I would submit to His Majesty's Government any proposition that might be made in the sense indicated by M. Dupeyrat.

The matter was discussed at considerable length, and finally this morning M. Hontoria consented that, in addition to the matters agreed upon at the thirtieth and thirty-first meetings (see my memorandum of the 27th ultimo, transmitted in Sir M. de Bunsen's despatch No. 82 of the 28th ultimo), the International Tribunal should have jurisdiction over persons of all nationalities in regard to—

1. All offences committed to the prejudice of the municipality (i.e., Mr. Brunyate's suggestion at the thirty-first meeting, "Toute infraction commise au préjudice d'une administration municipale sera justiciable du Tribunal international").

2. Fraudulent bankruptcy.

3. Infractions of municipal regulations regarding "cabarets et établissements assimilables" without limitation of penalty.

4. In the case of a second or subsequent offence against municipal regulations not included amongst those in regard to which the International Tribunal has unlimited power of punishment, the penalty which the Tribunal can impose is raised to imprisonment for one month and a-half and a fine of 200 pesetas hassani, the penalty for the first offence remaining limited to imprisonment for one month and a fine of 50 pesetas.

M. Hontoria also agreed that an article should be inserted, expressing the desire of the three Governments to entirely abolish Consular Courts as soon as possible, and to confer unlimited jurisdiction on the International Tribunal in all matters.

It appears to me that this is the utmost concession that can be obtained from the Spanish Government in the matter. I have not, however, as yet expressed any opinion, confining myself to saying that I would submit the proposal to His Majesty's Government.

H. E. W.

Madrid, May 17, 1913.

[22599]

No. 116.

Sir Edward Grey to Mr. White.

Sir,

Foreign Office, May 21, 1913.

I HAVE received from His Majesty's Ambassador at Madrid your memorandum of the 13th instant respecting the 40th to 44th meetings of the Tangier Conference, and I approve your attitude as reported therein and the various resolutions adopted by the Mixed Commission.

I am, &c.

E. GREY.

[20290]

No. 117.

Sir Edward Grey to M. Cambon.

HIS Majesty's Principal Secretary of State for Foreign Affairs presents his compliments to the French Ambassador, and, with reference to the note addressed to his Excellency on the 8th April, has the honour to state that a despatch has now been received from Lord Kitchener respecting the desire expressed by the French Government to assume the protection of Moroccans resident in Egypt.

After full consideration of the matter, Sir E. Grey has the honour to offer to M. Cambon the following observations:—

Up to the present time the legal status of Moorish subjects residing in Egypt has been that of other foreigners residing in the country, who are not subjects of a Power which has acquired special privileges by capitulations or by special treaties.

In penal matters Moorish subjects are therefore under the Native Tribunals. In matters of personal statute the Mehkemeh Charieh and the Meglis Hasbis have jurisdiction. In other civil actions they are assimilated to local subjects by the Native Tribunals, and to privileged foreigners by the Mixed Tribunals.

The only decision of any court dealing with the possible change of status owing to the present position of France in Morocco is one taken by the Summary Tribunal in February last, to the effect that no change of status can take place until the Powers have recognised the protectorate of France over Morocco.

It is now apparently proposed that all Moroccans residing in Egypt, amounting to some 2,000, should be withdrawn from the jurisdiction of the local courts, both as regards their disputes with local subjects, and as regards any criminal act they may commit.

Although His Majesty's Government are sincerely desirous of meeting the wishes of the French Government in the spirit of the agreements between the two countries in regard to Egypt and Morocco, Sir E. Grey cannot but feel that it would be very

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inopportune that, at the moment when His Majesty's Government are in communication with the French Government respecting their desire to abolish the capitulatory régime in Egypt, and are contemplating giving up what corresponds to capitulations in Morocco, the Egyptian Government should be asked to extend that privileged system to a large number of Mohammedans residing in the country.

Foreign Office, May 21, 1913.

[23528]

No. 118.

Mr. White to Sir Edward Grey.—(Received May 23.)

Sir,

Madrid, May 18, 1913.

WITH reference to my despatch of the 20th ultimo, I have the honour to report that M. Caqueray, managing director of the Compagnie marocaine and director of the Société marocaine de Travaux publics, called on me yesterday with reference to the desire of the subsidiary company of the latter, the Société internationale pour le Développement de Tanger, to obtain a concession for the construction and exploitation of the proposed harbour at Tangier. He suggested that the Mixed Commission should deal with the matter, and should recommend that such concession should be granted without waiting for the establishment of the municipality.

I told him that it appeared to me that, though the individual members of the Commission could express their personal views on the subject to their respective Governments, the question of the immediate grant of a concession was outside the province of the Commission, which could not, as a body, take action in the matter.

In the course of our conversation, M. Caqueray stated that the Société internationale pour le Développement de Tanger desired to obtain the concession with a view to the exploitation only; it had no intention of tendering for the construction itself, though some of the firms composing the society would doubtless, in their individual capacity, tender for the work. He thought that the head office of the society would be at Paris, as the most central place for the directors to meet, but the direction would be international, in the same proportion as the capital, that is to say, there would be three French, two Spanish, two British, and two German directors, and one director representing the capital subscribed by other nationalities. With regard to the managing staff at Tangier, he said arrangements could be made for giving it an international character. I gathered, however, that there would be a French managing director.

In answer to my enquiry as to the terms of repurchase, M. Caqueray observed that a clause could be inserted in the contract to enable the municipality to terminate the concession and take the exploitation of the harbour into its own hands when it desired, but the conditions of repurchase would be more onerous the earlier the right was exercised.

I observed that it was difficult to form an opinion as to the merits of the scheme unless one had before one a more definite proposal showing the terms of the proposed contract of concession, and I expressed some doubt whether it would not be more in the interests of the municipality to put the concession up to adjudication in order to secure the best terms obtainable. M. Caqueray naturally deprecated this procedure, arguing that a company obtaining the concession in such a manner would endeavour to exploit the harbour in as economical a manner as possible so as to increase its profits, and the results would be deplorable, as the object should be to attract navigation with a view to future profits rather than to regard an immediate return for the outlay of capital. He also considered that it was more to the general interests that the exploitation of the harbour should be in the hands of an international company.

M. Caqueray added that if the Société internationale pour le Développement de Tanger obtained the concession for the harbour, it would be desirable that they should also take up the 8 per cent. share in the Tangier-Fez Railway Company, as it would be advantageous that there should be, as far as possible, community of interests, and consequent co-operation, between the two concerns, port and railway. There is some truth in this, but as half of the capital in the society will be Franco-Spanish, the effect would be that only 4 per cent. of the capital of the Tangier-Fez Railway would be in other than French and Spanish hands.

I was careful in my conversation with M. Caqueray to abstain from expressing any opinion, contenting myself with eliciting such information as I could obtain as to

the intention of the Compagnie marocaine de Travaux publics in regard to the concession they desired to obtain for their subsidiary company. The Société pour le Développement de Tanger has not yet been actually formed, but all necessary arrangements have been made for the subscription of the capital. The society will not be definitely constituted and registered unless there is a reasonable prospect of obtaining the concession for the port. They would, in that case, also endeavour to secure concessions for the other public works to be undertaken at Tangier, such as water supply, electric power, tramways, &c.

I have, &c.

HERBERT E. WHITE.

[23666]

No. 119.

Mr. Kennard to Sir Edward Grey.—(Received May 24.)

(No. 148.)

Sir,

Tangier, May 17, 1913.

WITH reference to my despatch No. 139 of the 10th instant, I have the honour to report that, in accordance with your instructions, I have acknowledged the receipt of the Spanish Minister's note informing me of the nomination of Mulai Mehdi as Khalifa of the Sultan in the Spanish zone, and that I have returned no answer to the communication of the commissioner for Foreign Affairs informing me of Mulai Mehdi's arrival at Tetuan. I gather that the majority of my colleagues have adopted a similar attitude. The doyen of the Corps Diplomatique now informs me that he has received a note from Cid Guebbas stating that any representations regarding cases which foreign subjects may have in the Spanish zone, should be made to him for communication to the Makhzen authorities at Rabat, who will forward them to the authorities at Tetuan for their consideration. I have not yet seen this note, but will forward a copy thereof, when it is circulated. It seems most unfortunate that the French Government should adopt this attitude with regard to the relations between the two zones, but a study of the Franco-Moorish Treaty of March 1912 and the Franco-Spanish Treaty of November last shows that, whatever the spirit may be of their provisions on these points, they are in many instances quite contradictory and, if insisted on, must give rise to continual friction. While the recent visit of the King of Spain to Paris may have had good results, there can be no improvement locally in the relations between the French and Spanish zones, so long as the French Government insist on maintaining this degree of control over the administration of the Spanish zone. In speaking with my French and Spanish colleagues I notice a bitterness and suspicion regarding any proposals, no matter how useful they may be to either zone, and it is only in matters of common interest *vis-à-vis* the other members of the Corps Diplomatique that any harmony can be said to exist between them.

The prospects for the Spanish zone are by no means bright. [The rising effervescence among the tribes in the neighbourhood of Tetuan and Alcazar may result in an outburst at any moment. It is generally thought that, when the harvest is over in about a month's time, hostilities will be commenced against the Spanish troops. As it is, the roads from here to Tetuan and from there to Ceuta are unsafe for ordinary travellers. Gatherings of the tribes are reported daily, and any attempt of the Spanish troops to penetrate into the interior will doubtless result in bloodshed. These fears are confirmed by the British consular agent at Alcazar, who is well informed on tribal affairs.]

There seems to be a complete breach between Raisuli and the Spanish authorities. He came to see me yesterday regarding the seizure by the local authorities of a property which he had recently acquired in the neighbourhood of Tangier and which is claimed as Makhzen land. He was informed that this was a matter to be dealt with by the Makhzen and Shraa, and that this legation could not intervene therein. I attempted to ascertain what might be the cause of his rupture with the Spanish Legation by enquiring why he did not go to them in such cases instead of to me. He replied that, being a question in the Tangier zone, he thought that England having a preponderant influence here, could best help him; had it been a question in the Arzila district, he would have approached the Spanish Legation. The Kaid is clearly not desirous of discussing his relations with the latter, and it is feared that he is intriguing with the tribes and fermenting disturbances in his district.

I gather that the contrast between the activity displayed in the French zone and the inertia in the Spanish zone is very marked. In the former, steps are being taken to pacify all disturbed districts, and the improvement in means of communication and general conditions is advancing rapidly; while in the latter, little or nothing is being done, even in the towns now occupied, to introduce useful reforms and execute public works schemes. At Tetuan the Resident-General is taking such measures as may be possible, but nothing can be done outside the town owing to the fear of tribal attacks. A British mining engineer, who has been prospecting mining claims in the Riff, tells me that it is impossible to reach most of the districts where the mines are situated owing to the disturbed condition of the country.

While tribal dissensions may prevent any combined attacks on a large scale, a general conflagration throughout the Spanish zone would prove a serious problem for the authorities to deal with and, should they find it impossible to do so owing to lack of funds and military initiative, there is the fear that the French Government may insist on the adequate protection of means of communication between their zone and Tangier. There is a scheme at present before the public works committee for a road between Tangier and Alcazar which is being opposed by the Spanish Government, on the ground that they have not been consulted before the submission of the scheme and that the road may injure the commercial interests of Larache and Alcazar. It seems a short-sighted policy to refuse a gift of 650,000 fr. from the Casse Spéciale, but there is probably the suspicion and fear that the increase of facilities between the French and Spanish zones may be strategically undesirable. It is to be hoped that a more conciliatory policy and a spirit of harmonious co-operation may be adopted in the future, as the constant friction which is evident in most questions at present is injurious not only to the interests of the two zones concerned but also to those of the Tangier zone.

A copy of this despatch has been sent to His Majesty's Ambassador at Madrid.

I have, &c.

H. W. KENNARD.

[23921]

No. 120.

Sir M. de Bunsen to Sir Edward Grey.—(Received May 26.)

(No. 95.)

Sir,

Madrid, May 22, 1913.

WITH reference to my despatch No. 78 of the 26th ultimo, I have the honour to report that a Spanish financial review publishes the following particulars concerning the new draft mining regulations for Morocco, as recently drawn up in Paris by Señor Villares Amor, inspector-general of mines, on behalf of Spain, and by M. Delure, director of public works in the French Morocco zone, on behalf of France.

A circular form of mining claims, during the period of investigation, is replaced by a rectangular form; some of the taxes are raised, but not those in iron ore, coal, &c.; powers of mining department increased; claims not to cover less than a specified minimum area; regulations concerning communications, transport of ore, charging and discharging at seaports, &c., assimilated to existing laws on the subject elsewhere, and to proposed régime of Tangier-Fez railway; rules concerning recognition of established rights, both French and Spanish; measures to enable the above establishments to export their ore without delay.

In the place of the Lausanne Tribunal the two Governments will set up special Courts for their respective zones to deal with mining claims arising out of previous occupation of mining areas. These Courts will take into account actual possessions, the existence of works in operation, and, possibly, also questions of proprietary rights.

The German Ambassador has again spoken to me with regard to this matter. In reply to a recent official protest he has received a note from the Spanish Government defending the action taken in drawing up fresh regulations jointly with France, founding this contention on article 1 of the Franco-German Morocco Convention of November 1911, and proposing, if the German Government disagrees, to submit the question at issue to The Hague Tribunal.

Prince Ratibor doubts very much whether the German Government will accept the new regulations as foreshadowed in the Spanish press.

I have, &c.

MAURICE DE BUNSEN.

[23922]

No. 121.

Sir M. de Bunsen to Sir Edward Grey.—(Received May 26.)

(No. 96.)

Sir,

Madrid, May 22, 1913.

WITH the enclosed memorandum Mr. White forwards the *procès-verbaux* of the 45th to the 50th meetings of the Mixed Tangier Commission.

The French Ambassador and myself are arranging for an interview with the Minister of State in the hope that we may help to promote a settlement at an early date.

I have, &c.

MAURICE DE BUNSEN.

Enclosure 1 in No. 121.

Memorandum by Mr. White.

I TRANSMIT herewith copies of the *procès-verbaux* of the 45th to 50th meetings of the Mixed Commission.

The question of the various administrations to be established at Tangier was again discussed at the 46th meeting, and it was decided not to create a separate department to deal with matters affecting the Mussulman population. It was felt that a separate department for "affaires indigènes" might create confusion and possibly come into conflict with the departments dealing with similar matters affecting the rest of the population; moreover, the Commission was of opinion that for the present at any rate, it would be difficult to find amongst the natives, persons who could be relied upon to efficiently and honestly administer such a department without the control of a European, which might be resented by the natives in matters connected with their religion and customs. The French and Spanish delegates, therefore, adopted a suggestion of mine which they had previously rejected, that Moors should be attached to such department dealing with matters affecting the natives; the management of such affairs would be entrusted to them, and they alone would have direct dealings with their coreligionists in connection therewith; at the same time the bureau, of which they would be in charge, being attached to a department, they would be under effective control, without that control being so evident to the public.

It was also decided to create separate departments for (1) General Affairs, Police, and Prisons, and (2) Education, Poor Relief, and Public Health, instead of uniting them all in one department, as previously arranged. There will thus be three departments in all, exclusive of the Judiciary and Public Works, and, as France, Spain, and Great Britain, are the countries which have the greatest interests at Tangier, it was decided to appoint a Frenchman as head of the Department of the Interior, a Spaniard as head of the Department of Education, Poor Relief, and Public Health, and a British subject as head of the Department of Finance. It was further decided that all the subordinate posts under the municipality should be filled by persons of various nationalities in proportion to the importance of their interests at Tangier—no nationality occupying more than 25 per cent. of such posts.

The question of the jurisdiction to be assigned to the International Court and of the nationality of the judges, which was discussed at the 48th meeting, formed the subject of my memorandum of the 17th instant. The Secretary of State having expressed the desire to meet M. Dupeyrat and myself in order to hear our views on the points upon which it had not yet been possible to come to an agreement, we had a long interview with his Excellency yesterday evening and fully explained the various questions at issue. M. Navarro Reverter, whilst reserving the discussion for a meeting he proposed to hold with the British and French Ambassadors, gave us the impression that he was sincerely desirous of effecting a compromise on all points. I took the opportunity to refer to the judicial question and put forward a proposal, which had been previously rejected by M. Hontoria and M. Padilla, (1) that the press at Tangier

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should be subject to the jurisdiction of the International Tribunal, and (2) that, instead of providing that the British judge should act as substitute for the "avocat du gouvernement," as suggested by M. Hontoria, a post of assistant advocate of the Government should be created and be given to a British subject. This would obviate the possible shortage of judges if the British judge were acting as Government advocate, and it would also be advantageous not to leave Spain with an entirely free hand in so important an office—an assistant of another nationality, even though entirely subordinate to the chief, necessarily acts as a control. M. Navarro Reverter said that he considered both my proposals quite reasonable and he overruled the objections raised by M. Padilla. His Excellency, however, reserved his final decision upon all the points discussed until he talks them over again with the Ambassadors: it is to be hoped that he will not in the meantime allow himself to be persuaded by M. Hontoria or M. Padilla to adopt a less conciliatory attitude.

At the 49th meeting M. Dupeyrat put forward a proposal regarding existing schools, hospitals, &c., at Tangier. I reserved my decision as the article appeared to me to be too wide in some respects, whilst not wide enough in others. The classe of establishments to which it refers is too vaguely defined and the exemption from control and taxation too great, whilst on the other hand, it appears to me that future establishments of the same class should enjoy the same privileges. I have no doubt that I shall be able to come to an agreement with my French and Spanish colleagues on this matter.

M. Dupeyrat also, at the same time, submitted a draft article regarding protection, copy of which is transmitted herewith, as M. Dupeyrat did not include it in the *procès-verbal*. I said that I was prepared to accept the first paragraph, if a clause was added providing that the interests of the ex-protégés would continue to be protected in the other two zones until the abolition of protection in these zones, but that I regretted to be unable to accept the rest of the article. The object, as M. Dupeyrat admitted, was, not to protect the ex-Sultans, but to acquire jurisdiction over them, so as to be able to deport them at any moment should their presence at Tangier prove inconvenient. I pointed out that neither Mulai Abd-el-Aziz nor Mulai Hafid were at present under French protection, nor had they applied for such protection, and that we would not be justified in placing them under French jurisdiction against their will. I was, I said, quite prepared to afford every reasonable guarantee to France and Spain that the international zone should not be used as a base for intriguing against the authorities of their zones, and for that purpose I suggested that an article should be adopted providing that any person shown to have been so intriguing should be deported; this would cover the case of the ex-Sultans, should they be guilty of such conduct. M. Dupeyrat, however, did not consider this sufficient, he claimed that the French authorities should be entitled, without any form of trial and with no questions asked, but simply at their will, to order the ex-Sultans to leave Tangier. I could not reconcile it with my ideas of justice to accept so unfair and arbitrary an arrangement. I have no feelings of sympathy with Mulai Hafid, but both he and Mulai Abd-el-Aziz have purchased properties and built themselves houses at Tangier, where they have established themselves and their families, and it would be a great hardship to them to be suddenly forced to leave and settle in the East, or at any other place, at a distance from their home, their relations and friends. If they had done anything to deserve it, one would have no sympathy with them, but one cannot but remember the numerous baseless accusations of intriguing that were in the past brought against El Menebhi and others by the French Legation to realise the danger to which the ex-Sultans would be exposed if the proposed article were to be accepted. The behaviour of Mulai Abd-el-Aziz has been beyond reproach since His Majesty's arrival at Tangier, and by refusing the throne, when offered to him by the French, he has proved that there was [? no] foundation for the belief once held at the French Legation that he was intriguing for his reinstatement. To accept M. Dupeyrat's proposal would be to place Mulai Abd-el-Aziz and Mulai Hafid at the mercy of any enemy, who might make false reports against them to the French authorities.

With regard to the first paragraph of the proposed article I regret to have to report that hitherto M. Dupeyrat has refused to accept the clause I desired to add. This is a point upon which I think we cannot give way. Questions have recently been raised by the French authorities as to some of the properties of Menebhi in their zone and I do not think it would be right to withdraw our protection from him for the present.

H. E. W.

Madrid, May 21, 1913.

P.S. Madrid, May 22, 1913.—M. Dupeyrat has now suggested the following formula, which is the outcome of a conversation between Sir M. de Bunsen and M. Geoffray:—

"Les Gouvernements signataires de la présente convention ou y adhérant s'engagent à ne pas créer de nouveaux protégés ou associés agricoles dans la zone internationale. Les protégés et associés agricoles existant actuellement dans cette zone y seront, dans la même mesure que les autres indigènes, justiciables du tribunal international dès que celui-ci fonctionnera, et deviendront de même, dans chacune des deux autres zones, justiciables de la nouvelle juridiction locale dès que celle-ci aura été établie et, ainsi que le prévoit le traité du 6 novembre, 1912, acceptée par les Puissances."

I informed M. Dupeyrat that I would submit this formula to His Majesty's Secretary of State, but must await instructions before accepting it, as it prejudices, to a certain extent, the question of the abolition of protection in the other zones: indeed, M. Dupeyrat made no secret of the fact that it was for that reason that he was so anxious to obtain its acceptance in preference to that I had suggested, which was identic except that it ended at the words "dès que celui-ci fonctionnera." The French hope to establish the new Tribunals in their zone almost immediately, the scheme having already been drawn up and being now under consideration by a special commission at Paris; they would, therefore, doubtless, be very glad to obtain our acceptance of an article which they consider will greatly facilitate the abolition of protection in their zone.

I should be grateful if I could be favoured with instructions by telegraph on this subject as the Mixed Commission hopes to conclude its labours very shortly.

H. E. W.

Enclosure 2 in No. 121.

Draft Article proposed by M. Dupeyrat.

LES Gouvernements signataires de la présente convention ou y adhérant s'engagent à ne conserver ni protégés ni associés agricoles dans la zone internationale dès que le tribunal international sera installé.

Toutefois, le Gouvernement de la République française se réserve de concéder ou de maintenir la protection française avec toutes ses conséquences de droit aux anciens Sultans du Maroc, qui, avec son assentiment, ont fixé ou fixeraient à l'avenir leur résidence dans la zone internationale.

De même, le Gouvernement de Sa Majesté le Roi d'Espagne se réserve de concéder ou de maintenir la protection espagnole aux anciens Khalifas de Sa Majesté chérifienne en zone espagnole qui, avec son assentiment, fixeraient leur résidence dans la zone internationale.

Au cas où ces hauts personnages deviendraient une cause de difficultés pour la municipalité, celle-ci devrait en référer à celui des deux Gouvernements qui serait intéressé et arrêter, de concert avec lui, les mesures à prendre. Ce n'est également que sur la demande et avec l'autorisation de celui des deux Gouvernements qui serait intéressé que la municipalité pourrait interdire à un ancien Sultan ou ancien Khalifa le territoire municipal.

Enclosure 3 in No. 121.

Procès-verbal of Forty-fifth Meeting of Tangier Mixed Commission, held May 14, 1913.

LA Commission mixte d'internationalisation de Tanger s'est réunie au Palais du Ministère d'État, le mercredi, 14 mai, 1913, à 10 heures et demie.

Le procès-verbal de la précédente séance est adopté.

La Commission adopte l'article proposé par M. Dupeyrat à la fin de la 17^e séance. Toutefois, à la demande de Mr. White, les mots "ou découverte" sont intercalés entre les mots "survenue" et "postérieurement."

La Commission se livre à une discussion générale sur l'organisation des services administratifs et la répartition des divers postes. La suite en est renvoyée à la prochaine séance.

La séance est levée à 1 heure et demie.

Enclosure 4 in No. 121.

Procès-verbal of Forty-sixth Meeting of Tangier Mixed Commission, held May 15, 1913.

LA Commission mixte d'internationalisation de Tanger s'est réunie au Palais du Ministère d'État, le jeudi, 15 mai, à 10 heures et demie.

Le procès-verbal de la précédente séance est adopté.

La Commission poursuit la discussion générale commencée la veille et en dégage les conclusions :

1. Elle confirme la décision prise avec le concours des juristes qui lui étaient adjoints et qui est rappelée au procès-verbal de la 41^e séance.

Le tribunal de Tanger doit être un organe spécial qu'on ne saurait assimiler à un service municipal ordinaire, et qui doit offrir aux ressortissants des Puissances des garanties spéciales d'impartialité, puisqu'il s'agit de lui faire confier une plus ou moins grande partie des attributions qui actuellement appartiennent aux diverses juridictions consulaires.

2. Elle reconnaît que le service des travaux publics ne saurait davantage être assimilé à aucun autre service municipal, tant que subsistera le régime de la taxe spéciale et des adjudications à Tanger.

3. Elle estime nécessaire de modifier ses premières conclusions, qui tendaient à créer trois services municipaux proprement dits : Finances, Intérieur, Affaires indigènes. Un service autonome spécial ne pourrait pas centraliser toutes les affaires indigènes, sans de sérieux inconvénients pour leur bonne expédition et provoqueraient de nombreuses confusions, si non même des conflits d'attributions ; il serait en outre difficile de recruter son personnel.

D'autre part, un Département de l'Intérieur avec la si large compétence précédemment prévue et avec le plus grand nombre des affaires indigènes serait un service trop surchargé.

Il convient de le diviser.

En conséquence la Commission décide qu'il y a lieu de créer à Tanger les trois services municipaux proprement dits ci-après :—

Finances.

Intérieur (affaires générales, police, et prisons).

Enseignement, assistance, santé publique.

La séance est levée à 2 heures.

Enclosure 5 in No. 121.

Procès-verbal of Forty-seventh Meeting of Tangier Mixed Commission, held May 16, 1913.

LA Commission mixte d'internationalisation de Tanger s'est réunie au Palais du Ministère d'État, le vendredi, 16 mai, 1913, à 10 heures et demie.

Le procès-verbal de la précédente séance est adopté.

La Commission ayant arrêté la liste des services publics, la question se pose du recrutement du personnel. M. Dupeyrat, à cette occasion, rappelle la discussion générale des 19^e et 20^e séances.

La Commission tombe d'accord qu'il importe d'éviter que chaque emploi à pourvoir provoque une lutte d'influences ; elle reconnaît que le seul moyen de parer à ce danger est de fixer d'avance la proportion dans laquelle chaque nationalité pourra concourir à la formation des cadres. Cette proportion ne peut être qu'égale à l'importance relative de chaque colonie étrangère et de ses intérêts de toute nature

dans la zone internationale. Pour le déterminer il suffira d'en réunir les signes extérieurs chiffrables dans une formule de pourcentage.

M. Dupeyrat propose de prendre en considération, pour chaque Puissance signataire de l'Acte d'Algésiras, le nombre de ses ressortissants, le total de son commerce d'importation et d'exportation, et la valeur globale de la propriété immobilière de chaque colonie. M. Padilla demande qu'il soit également tenu compte du fait que des intérêts considérables peuvent être engagés de façon permanente à Tanger sous forme de locations. La Commission décide, pour faire droit au désir exprimé par le délégué espagnol, d'introduire dans la formule les chiffres du total des loyers payés par les locataires des diverses nationalités.

Mr. White observe, à son tour, que l'importance de la navigation n'est pas non plus négligeable ; il propose de la représenter par le moyen du tonnage et du nombre des navires. Il en est ainsi décidé.

Le classement des diverses Puissances, d'après la formule mathématique établie comme il vient d'être dit, au moyen des renseignements les plus approximatifs qu'il a été possible de recueillir, et qui d'ailleurs devront être vérifiés et précisés, fait ressortir que les trois Puissances venant au premier rang sont la France, l'Espagne et l'Angleterre, qui auront donc à prendre la direction des trois services municipaux proprement dits. Les Finances seront confiées à un directeur anglais, l'Intérieur à un directeur français, l'Enseignement, l'Assistance et l'Hygiène à un directeur espagnol.

Mr. White observe qu'il conviendrait, pour la répartition de l'ensemble du personnel administratif, de fixer une limitation des droits de chaque nationalité, ainsi qu'il a été fait pour l'attribution des sièges à l'Assemblée municipale. MM. Dupeyrat et Padilla y consentent et le maximum d'emplois par nationalité est fixé à 25 pour cent, étant entendu qu'afin de mieux accuser le caractère international de la municipalité, les postes ainsi redevenus libres seront de préférence pourvus de titulaires appartenant aux nationalités les moins représentées.

Les emplois publics seront classés par catégories de grade et chaque catégorie sera l'objet d'une répartition spéciale. Les catégories seront les suivantes :—

Directeurs ou chefs des services autonomes.

Chefs de bureau ou chefs des services rattachés.

Sous-chefs de bureau ou des services rattachés.

Rédacteurs et assimilés.

Commis et expéditionnaires.

La séance est levée à 1 heure et demie.

Enclosure 6 in No. 121.

Procès-verbal of Forty-eighth Meeting of Tangier Mixed Commission, held May 17, 1913.

LA Commission mixte d'internationalisation de Tanger s'est réunie au Palais du Ministère d'État, le samedi, 17 mai, à 10 heures et demie.

Le procès-verbal de la précédente séance est adopté.

La Commission recherche s'il y a possibilité de régler la question judiciaire par une transaction.

Mr. White accepte sur la demande du délégué espagnol de soumettre à son Gouvernement la proposition suivante :—

" 1. Le tribunal international serait ainsi composé :

" Président, français.

" Avocat du Gouvernement, espagnol.

" Vice-président, anglais, remplaçant, en cas d'absence ou d'empêchement, l'avocat du Gouvernement.

" Un juge français.

" Deux juges espagnols.

" Un juge allemand.

" 2. Aux exceptions déjà apportées à la compétence de la juridiction consulaire s'ajouteraient en faveur du tribunal international, les suivantes :—

" (a.) Formule Brunyate (procès-verbal de la 30^e séance).

" Toute infraction commise au préjudice d'une administration municipale sera justiciable du tribunal international.

"(b.) Les affaires de banqueroute frauduleuse.

"(c.) Les infractions à la réglementation municipale en matière de cabarets et établissements assimilables.

"Par modification du §1 de l'article inséré au procès-verbal de la 30^e séance :

"3. Le tribunal international sera qualifié quelle que soit la nationalité des délinquants, pour connaître des infractions aux règlements municipaux dont les primes, en cas de première faute, ne dépassent pas la compétence du juge jugeant seul, mais qui en cas de récidive pourront atteindre 1 mois et demi de prison et une amende de 200 pesetas hassani."

Mr. White fait observer qu'un magistrat ne peut pas faire fonctions d'avocat du Gouvernement et que ceci doit avoir un véritable substitut. Si on admet l'éventualité du remplacement de l'avocat du Gouvernement par un Anglais, le poste de substitut doit être réservé à l'Angleterre.

La séance levée à midi et demi.

Enclosure 7 in No. 121.

Procès-verbal of Forty-ninth Meeting of Tangier Mixed Commission, held May 19, 1913.

LA Commission mixte d'internationalisation de Tanger s'est réunie au Palais du Ministère d'État, le lundi, 19 mai, à 10 heures et demie.

Le procès-verbal de la précédente séance est adopté.

M. Dupeyrat propose l'article suivant relatif aux établissements actuellement existante à Tanger :—

"Les établissements de toutes nationalités et de tous ordres, scolaire, hospitalier, scientifique, &c., actuellement existants sur le territoire de la zone internationale seront maintenus et conserveront leur entière et complète autonomie. La municipalité n'aura en aucun cas le droit de s'immiscer dans leur fonctionnement ni d'entraver leur développement. Elle s'abstiendra, d'autre part de en reconnaissance des services qu'ils rendent, de les soumettre au paiement de taxes ou redevances autres que celles auxquelles ils sont actuellement astreints."

M. Padilla appuie cette proposition. Mr. White, qui accepte le principe que les œuvres de bienfaisance soient, autant que possible, encouragées et exemptées de taxes, demande cependant à étudier les répercussions éventuelles du texte présenté avant de se prononcer à son sujet.

M. Dupeyrat propose au sujet de la protection en zone internationale un article dont la discussion est renvoyée à la prochaine séance.

La séance est levée à 1 heure 40.

Enclosure 8 in No. 121.

Procès-verbal of Fiftieth Meeting of Tangier Mixed Commission, held May 20, 1913.

LA Commission mixte d'internationalisation de Tanger s'est réunie au Palais du Ministère d'État, le mardi 20 mai, à 10 heures et demie du matin.

Le procès-verbal de la précédente séance est adopté.

M. Padilla donne connaissance à la Commission de la lettre suivante du président et du secrétaire de la communauté israélite de Tanger :—

"Messieurs,

"Nous avons l'honneur, en notre qualité de représentants de la communauté israélite de Tanger, d'appeler respectueusement votre attention sur la situation suivante :

"La rumeur publique et les renseignements publiés par la presse, ont fait allusion à diverses reprises aux différents systèmes susceptibles d'être adoptés à Madrid, pour arrêter les bases du futur statut de Tanger, relativement à la composition

de la municipalité de cette ville. Un des systèmes comporterait trois collèges électoraux composés respectivement des colonies étrangères, de la population musulmane et de la population israélite indigène. Notre communauté, de même que la communauté musulmane, aurait donc, au sein de la municipalité, des représentants attitrés.

"S'il en est ainsi, nous avons le devoir de faire respectueusement observer, que, pour que cette représentation puisse être effective non seulement au point de vue des intérêts confessionnels, mais aussi de l'œuvre générale de la municipalité, il est indispensable qu'aucune restriction ne soit imposée à notre communauté quant au choix de ses mandataires. Nous entendons par là qu'elle doit avoir la liberté de désigner pour la représenter, soit des sujets indigènes, soit des sujets ou des protégés étrangers, à la seule condition que ce soient des israélites habitant Tanger et participant à ses charges confessionnelles.

"Pour établir le bien-fondé de notre demande à ce sujet, nous devons faire remarquer que tous les israélites de Tanger, susceptibles de représenter utilement leur communauté au sein de la municipalité, sont des ressortissants étrangers. Cette situation qui, au prime abord peut paraître bizarre, s'explique par le fait que, depuis longtemps, les indigènes ayant quelque fortune ou représentant des intérêts étrangers ont été poussés pour se soustraire à l'arbitraire de l'administration locale, à rechercher dans les conditions prescrites par les traités, la qualité de sujets étrangers ou de protégés des diverses nations ici représentées.

"Dès lors, si notre communauté ne pouvait désigner comme mandataires à la municipalité que des israélites relevant de la juridiction indigène, elle y serait représentée par les moins qualifiés par leur influence et leurs capacités intellectuelles. Dans la pratique, son droit de représentation deviendrait de ce fait illusoire.

"Il y a lieu de considérer que, par son organisation, ses traditions et ses institutions communales, la communauté israélite de Tanger, qui compte plus de 12,000 âmes, représente des intérêts ayant une certaine connection avec les questions d'ordre municipal. Tels sont, par exemple, ses écoles, ses œuvres d'assistance, ses institutions de bienfaisance, son abbatoir, où le bétail est abattu d'après le rite de ses prescriptions cultuelles, ses temples, et les propriétés immobilières qu'elle possède et dont les revenus sont affectés à des œuvres de bienfaisance.

"Nous sommes sûrs, après les explications que nous avons l'honneur de vous donner, que cette situation spéciale n'échappera pas à votre haut esprit d'équité et que vous voudrez bien chercher la formule susceptible de concilier notre vœu légitime avec les préoccupations d'un ordre aussi élevé, dont doit s'inspirer le système que vous adopterez pour la composition de la municipalité.

"Nous nous permettons d'espérer que les efforts, connus de tous, tentés par notre communauté pour contribuer par ses écoles et ses institutions au progrès social du Maroc, vous feront accueillir avec sympathie notre demande. Nous n'entendons pas, d'ailleurs, réclamer un traitement de faveur. Nous demandons simplement la possibilité d'être utilement et effectivement représentés au sein de la municipalité.

"Veuillez, &c.

"Le Secrétaire,

"PINHAS ASAYAG.

"Le Président,

"Y. ABENSUR.

"MM. les Commissaires de l'Espagne, de la France,

"et de la Grande-Bretagne pour le statut de Tanger,

"au Ministère d'État, à Madrid."

La Commission prend acte de cette communication.

De la lettre de MM. Abensur et Pinhas Asayag il résulte qu'en résumé la collectivité israélite de Tanger demande à pouvoir élire ses représentants à l'Assemblée municipale parmi les israélites habitant Tanger sans distinguer entre eux qui sont sujets marocains et ceux qui ont acquis régulièrement une nationalité ou une protection étrangère.

La Commission estime qu'elle ne peut pas admettre l'élection par le collège indigène israélite de ressortissants de l'une quelconque des Puissances : ce serait rompre l'équilibre voulu au sein de l'Assemblée municipale. Quant aux protégés, au contraire, ils font partie du collège électoral indigène aux termes de la décision prise à la 15^e séance.

La séance est levée à 1 heure et demie.

[24072]

Sir C. Hyde to Mr. Wellesley.—(Received May 26.)

10, Victoria Street, Westminster,
May 23, 1913.

Dear Mr. Wellesley,

TANGIER Harbour.

I have been looking into this matter by the light of such little information as I have on this side.

I am somewhat hampered in not having even a sketch plan of what is proposed to be done, and I would suggest to you that it would be advisable for some kind of plan to be obtained so that any British firms intending to contract might be able to form some kind of idea as to the work to be placed before them.

What strikes me very forcibly is, that for the first few years that the port is open, there will be little, if any, surplus over working expenses to pay interest on the capital used in the construction of the port. Income not earned is income lost, so that the scheme, if it is to be acceptable, must present as many attractions to the concessionaire as is reasonably possible.

I have drawn up a few notes giving my ideas of the terms which I think will have to be offered if the scheme is to be an attractive one. Even with all of them, I doubt, on my present state of knowledge, whether there is anything to be done, and I feel reasonably certain that any less terms will fail to get the money.

I gather that the total capital is reckoned at 1,200,000*l.*; that the value of the surplus reclaimed land, after providing for the port and other public works requirements, is 600,000*l.*, and even assuming that all this surplus land is sold in reduction of the capital expenditure, there will still be over 600,000*l.* on which interest has to be earned. This sum, at 6 per cent. is 36,000*l.* per annum, whilst the total gross receipts of the port at the present time are said to be not more than 20,000*l.* You will see, therefore, how big is the gap which has to be filled in; how large a capital has to be provided; and how very uncertain is any return to the concessionaire. Still, if good terms are offered, it might be well worth while investigating with a view to taking a concession for the construction and working of the port.

I notice in the particulars you forwarded to me that it is suggested that the municipality should have a very free hand in the management of the port. I have left, as far as possible, any such idea out of my proposal, as I do not think it would be workable.

Of course all this is quite unofficial.

Yours very truly,
CLARENDON HYDE.

Enclosure in No. 122.

Memorandum by Sir C. Hyde.

THE port of Tangier in 1911 and 1912 handled imports and exports of the total value approximately of between 900,000*l.* and 1,000,000*l.*

It is used as a port of call by some 1,700 to 1,800 steamers with a total tonnage of 1,500,000 tons (say 900 tons average). The total business done is only about 11*s.* per registered ton, and points to the fact that Tangier is merely at present a port of call for largish steamers. Altogether the tonnage handled only amounted in 1911 to 62,000 tons and in 1912 to 68,000 tons.

The average number of passengers embarking and landing is from 30,000 to 36,000 per annum.

We have not had before us any details of what is proposed to be done, and we understand that there are no plans of the proposed work over here. A report (apparently to the municipality), however, says:—

That the plans for the proposed port provide for an area of 346 acres of water, of which 210 acres has less than 32 feet depth;

That there will be 5,450 yards of quays with 360 acres for yards, &c., of which 198 acres will be required for port buildings and open spaces, the railway station and other public works;

That about 150 acres will thus be available for other purposes;

That the proposed port is to afford accommodation for dealing with 2,500,000 tons of goods a-year; and

That the approximate cost is estimated at 1,200,000*l.*

The 150 acres of land available for other purposes, taken at 1*l.* per metre, it is reckoned, will give 600,000*l.* towards a reduction of the capital cost.

Further, an article in "Annuaire du Maroc" for 1912 on the port of Tangier, says:—

"The town is situated at the end of a vast bay, well sheltered from the west winds. It should suffice to protect the port on the east and the north-east by the construction of a jetty, springing from the existing small mole and forming inside the bay an evolution harbour which would give ships a depth of water of from 8 to 10 metres below low water. Perhaps a low jetty would be necessary on the east to preserve this harbour from the sand drifting from that side. The harbour in question would have to be partly dredged in order to give throughout the necessary depths. The product of this dredging would constitute large reclamations bounded by the unloading quays.

"The existing port will be encircled by the new works, and will constitute a loading dock."

The Admiralty chart of Tangier Bay shows under 18 foot depth of water for at least 900 yards, and also that a depth of under 30 feet extends in parts to about 1,100 yards from shore. Considerable dredging will therefore be required to form a harbour capable of taking large vessels.

It is assumed that no rights exist by which any persons can claim free admission to the port, or rights hostile to the port. This point is essential, as in July 1905 the Moorish Government seemed to have given a German firm (Messrs. Borgeaud, Reutmann, and Co.) a concession to construct and work for a limited period a mole and warehouses. It is not known whether anything has been done under this concession, nor whether it has lapsed, nor whether similar concessions are in existence. If any such exist, the fact must materially hamper the prospects of the port as an independent commercial enterprise.

It would appear that the only method by which Tangier can be developed as a port is to lay down a comprehensive scheme which can be developed in small sections as the increase of the trade of the port warrants.

We have no plans before us to see how far this is practicable. It is apparent that any immediate execution of a large port scheme must either have the effect of frightening trade away, by reason of the necessarily high port dues and charges required to defray the expenses of the port and interest on capital, or loss; or else, if the rates are kept down to such reasonable figures as will encourage the use of the port, the expenses will not be met, the interest will not be earned, and other means of revenue must be resorted to in order to provide the income.

It is understood that the revenues of the municipality of Tangier are already sufficiently pledged, and cannot, having regard to the needs of the municipal authorities, sustain further burdens.

It must not be forgotten that Gibraltar, Larache, and Ceuta are the three immediate competitors for the trade which Tangier expects to handle, especially the coal trade.

It is understood that the transfer of the coal trade from Gibraltar to Tangier (about 150,000 tons a-year) will be aimed at by the port, and will not be seriously objected to by the Gibraltar port authorities.

It must not be overlooked also that under internationalisation the custom-house duties at Tangier are likely to be strictly collected, which will probably, as in the past, lead to a considerable diversion of the traffic to Larache or other ports.

With these facts in mind, it would seem that what is required to interest foreign capital, if the port is to be built by private enterprise, is a scheme based somewhat on the following lines:—

1. A concession for ninety-nine years to be granted.
2. The existing port works to be handed over to the concessionaire free of cost, and to be worked by him for his cost and benefit.
3. A comprehensive scheme of port works to be carried out in sections as the trade of the port develops, the obligation of the concessionaire for the construction of each additional section being suspended until a fixed interest has been earned upon the cost of the already completed works.
4. The concessionaire to have the right to expropriate all lands required.
5. All land reclaimed in connection with the port works to be either the property

of the concessionnaire or to be sold on the concessionnaire's behalf, so as to reduce the capital cost of the port works.

6. The municipality to grant to the concessionnaire, free of charge, all marine lands surrounding the port and required for extensions.

7. The concessionnaire to be guaranteed against any claims as to rights over the port by third parties.

8. The port to be worked and maintained by the concessionnaire during the term of the concession.

9. The municipality to have the right to purchase the works at any time after fifty years from the date of the concession, or after twenty years from the date of the final completion of the port, or whichever is the later, at a price to be fixed by arbitration, such price to be based on the capitalisation at 5 per cent. of the average earnings during the five best years in the preceding ten years. In any event, the price to be not less than the prime cost of the work.

10. The concessionnaire to have the right to levy and receive all dues (such as mooring charges, wharfage dues, anchorage dues, harbour dues, cattle shipping dues, craneage, light dues, sanitary service, loading and unloading charges, and warehouse dues), and to receive all receipts of every kind resulting from the exploitation of the port.

These dues to be fixed by the concessionnaire and approved by the Government at the time the concession is granted.

11. The concessionnaire to have the right to have a revision of the tariff, should the receipts from the port during two consecutive years not be sufficient, after payment of all expenses, to provide a dividend at the rate of 10 per cent. per annum upon the capital sunk in the business.

The Government to have the right to call for a reduction in the tariff should the receipts from the port for three consecutive years have been sufficient to pay a dividend of not less than 15 per cent. per annum on the aforesaid capital.

12. The concessionnaire to have the right to levy a charge per passenger using the port.

13. The concessionnaire to have the sole right—

- (a.) Of towage and lighterage in the port.
- (b.) To construct and exploit bonded warehouses within the precincts of the port.
- (c.) To construct and work repairing yards and docks within the precincts of the port.
- (d.) To provide and charge for water within the precincts of the port.
- (e.) To supply fuel for ships' bunkers.
- (f.) To carry on the service of handling and warehousing in connection with the custom-house.

14. Warehouse dues to be chargeable upon all goods stacked in the yards or on the quays.

15. The services of the port to be free from all State and/or municipal taxes and charges of every kind.

16. All materials required for the construction work and maintenance of the port works to be exempt from all import duties and charges of any kind.

17. The municipality not to charge any dues of any kind for the use of the port.

18. The concessionnaire to have the right to sink wells or otherwise provide a supply of water to the port, and such supply to be free from all State and/or municipal charges.

CLARENDON HYDE.

May 22, 1913.

[23922]

No. 123.

Sir Edward Grey to Sir M. de Bunsen.

(No. 17.)

(Telegraphic.) R.

Foreign Office, May 28, 1913.

YOUR despatch No. 96 of 22nd May: Tangier.

Following for Mr. White:—

"His Majesty's Government accept formula proposed in postscript of your memorandum respecting abolition of protection provided that it ends at words 'dès

que celui-ci fonctionnera' as suggested by you. Remainder of draft formula submitted by French delegate does not concern Tangier, and should not, therefore, form part of present convention."

[24549]

No. 124.

Sir M. de Bunsen to Sir Edward Grey.—(Received May 29.)

(No. 99.)

Sir,

Madrid, May 26, 1913.

I AM happy to report to-day a perceptible advance towards the conclusion of the labours of the Mixed Tangier Commission.

A general agreement on nearly all points having been reached between the British and French delegates, there remained to be overcome the reluctance of the Spanish delegate to concur with his colleagues on several questions, the most important being the French claim to retain in the Tangier zone the powers of the "Contrôle de la Dette," the competency of the International Tribunal to deal with the press, the appointment of a British subject to be assistant to the "avocat du Gouvernement," the admissibility of the services of non-Spanish Catholic priests within the Tangier zone, and matters relating to contraband and the protection of Tangier Moors abroad.

On the 25th instant the French Ambassador and myself discussed these points with the Minister of State, whom we found willing to meet our wishes as far as he could. In the enclosed memorandum Mr. White shows that an agreement was subsequently arrived at on several of the outstanding questions.

As regards the points still unsettled, I venture to think that Mr. White was well advised to resist the Spanish contention that when a Maritime Sanitary Board is set up at Tangier the Department of Education, Poor Relief, and Public Health, which will be under Spanish management, should have the nomination of one of the three members of the board. As there will be admittedly a French and a Spanish member, acceptance of the Spanish demand would give Spain two voices out of three on a board which it is obviously desirable to keep abreast with more advanced views on quarantine than those hitherto favoured by the Spanish Government.

The arrangements regarding police, accepted by Mr. White, appear to me satisfactory.

Regarding Public Works, I venture to hope that you will authorise me by telegraph, as time presses, to empower Mr. White to reject proposal put forward by the Spanish Under-Secretary of State, which would have the effect of dividing that service into two distinct bodies, one French and the other Spanish. The point is explained in the concluding portion of the memorandum.

I have, &c.

MAURICE DE BUNSEN.

Enclosure 1 in No. 124.

Memorandum by Mr. White.

AT its 51st meeting the Mixed Commission again considered the question of the various services, deciding that the chief executive officer, with the co-operation of the directors of the three Departments of Finance, Interior, and Education, Poor Relief, and Public Health, should draw up regulations to govern the working of the central administration. It was also decided under which Departments the various outside services should be placed. In this connection M. Padilla claimed that the Board of Health, dealing with maritime matters, should be placed under the Department of Education, Poor Relief, and Public Health, of which a Spaniard is the director.

The question of the Board of Health is a difficult one. The French and Spanish Governments would not, of course, consent to maintain the present system of the foreign representatives at Tangier forming the Board of Health for the whole of Morocco. On the other hand, it is necessary that the three zones should apply the same regulations and in the same manner, otherwise a vessel might, for instance, be placed in quarantine at Larache, proceed at once to Tangier, and be admitted there,

with the result that passengers and cargo could reach Larache by land. After some discussion it was agreed that general regulations applicable to the three zones should be framed by representatives of each zone, and should be applied in each of them by a local Board of Health, the board at Tangier being composed of three persons appointed respectively by the French, Spanish, and municipal authorities. M. Padilla claimed that this board should be placed under the Department of Education, Poor Relief, and Public Health, and that the representative of the international zone should be either the director of that Department or a person selected by him. M. Dupeyrat and I, whilst prepared to accept that the Board of Health should be nominally under the Department in question, objected to the Tangier representative being the director of that Department or his nominee, as that would give Spain two votes out of three, and would place all decisions in the hands of that Power. It was eventually agreed that the representative of the international zone should be nominated like other officials of the municipality, with the proviso that he should not be either a Frenchman or a Spaniard.

At a subsequent meeting the Spanish delegate stated that his Government considered that the matter was outside the province of the Mixed Commission, and he requested that the *procès-verbal* of the 51st meeting be modified. He desired that it should be stated merely that the Board of Health was under the Department of Education, Poor Relief, and Public Health, and that the matter should otherwise be left for discussion between the Governments.

I felt that I could not agree to this, so I stated that, in my opinion, the matter was within the competence of the commission, but that if the Spanish Government thought otherwise, it was, of course, impossible for us to deal with it; in that case, however, the whole question must be reserved for the consideration of our Governments. The *procès-verbal* was modified accordingly.

I was unwilling to make any concession which would give Spain a position of preponderance in this matter. Past experience of the working of the "Conseil sanitaire" at Tangier has shown that the Spanish Government is extremely retrograde and obstructive as regards quarantine regulations in Morocco. Spain alone has refused to sanction the sanitary regulations drawn up some years ago and approved by all the other Powers, and it is through her action that we have had to maintain in force antiquated regulations of so stringent a nature that it is impossible to enforce them. To allow Spain a preponderating voice in questions of quarantine would be to expose shipping interests to the risk of serious loss, and trade in general to great inconvenience.

At the 52nd meeting M. Dupeyrat raised the question of the abolition of protection. I submitted an article in the sense of my instructions. M. Dupeyrat refused to accept this, and proposed the formula quoted in my memorandum of the 21st instant. Not being yet in possession of instructions in regard to this proposition, I reserved my decision.

The direct intervention in the negotiations of the Minister of State and of the Ambassadors has had the happy result of bringing about a settlement of some of the most difficult points at issue, notably that of the "Contrôle de la Dette." M. Hontoria attended the 53rd meeting of the Mixed Commission held after the conversation of the Ambassadors with M. Navarro Reverter, and articles in the nature of a compromise were adopted in regard to:—

1. The Contrôle;
2. The protection of Tangier natives in other countries; and
3. The prevention of contraband of arms and ammunition.

The concessions made by France are more apparent than real; as regards the Contrôle, M. Dupeyrat has always admitted that the municipality, under the general delegation of powers granted by the Sultan, becomes possessed of all the rights of the Makhzen in relation to the Contrôle, such as participating in the management of the custom-house, Government lands, mestafadet, and zakkat. The farming of these taxes to the municipality, which will in its turn farm them to private persons, does not appear to me much gain, and the management of the Government lands, if undertaken directly by the municipality, will entail considerable loss, and will probably result in a smaller net gain to the municipal Treasury. I should personally have preferred to accept M. Dupeyrat's offer that the Contrôle should retain the management on the understanding that due regard should be paid to the wishes of the municipality.

The question of the monopoly of the Spanish Franciscans has not yet been

definitely settled; it has been referred to the President of the Council, who is consulting the Papal Nuncio.

M. Navarro Reverter agreed to the press being subject to the jurisdiction of the international tribunal, but at the meeting held this morning M. Hontoria stated that he had no instructions in regard to the appointment of a British subject as assistant to the "avocat du Gouvernement"; he promised, however, to refer the matter again to the Minister of State.

An agreement has also been come to in regard to the police, which it was decided should consist of:—

1. A military police under the command of a Spanish officer; and
2. A civil police under a French commissaire.

It was considered that, as the military police would frequently have to act in concert with the Spanish forces on the other side of the border, it was better that a Spanish officer should be in command. M. Dupeyrat made a great point of a French commissaire being at the head of the civil police and, as the subordinate officers and men will be of various nationalities, I did not think it expedient to object.

I fear it may be thought that I have yielded too much on the question of the nationality of the head officials. It must, however, be borne in mind that probably about eleven-twelfths of the foreign population at Tangier are French or Spanish, whilst France and Spain between them have about 57 per cent. of the imports and exports (much more of the local trade), 57½ per cent. of the shipping, and 63 per cent. of the land held by foreigners; we come next with 25½ per cent. of the commerce, 16 per cent. of the shipping, and 23 per cent. of the land. It has been decided that no nation should hold more than 25 per cent. of the subordinate posts.

I transmit herewith copies of the *procès-verbaux* of the 51st, 52nd, and 53rd meetings of the Mixed Commission.

At the 54th meeting held this morning, M. Hontoria again attending, the question of public works gave rise to considerable discussion. I transmit herewith a draft article which M. Dupeyrat and I were prepared to adopt. M. Hontoria, however, proposed an amendment, also transmitted herewith, providing for the division of the service into sections, which would practically amount to the creation of a French service and a Spanish service independent of each other. I pointed out that I had been prepared to accept the existing service, as M. Dupeyrat had declared that it must continue to be maintained owing to a contract which will not expire until the suppression of the "taxe spéciale," so that the municipality would in any case have to pay its share of the cost, and also as it was undesirable, in my opinion, to have two separate services. If the present service was not to be maintained as a whole, and if two separate and independent services were to be created, the municipality would regain its liberty, and there would be no reason why the service of public works should not be reckoned with the other municipal services, in which case an engineer of other nationality would have to be appointed as its head. My principal reason for objecting to M. Hontoria's proposal was, however, one which I could not state at the meeting: it was that the Spanish assistant engineer, who would become head of the new service, is, from all accounts, hopelessly incompetent. It would be a calamity for the municipality to have to entrust to him certain categories of the public works to be executed.

At M. Hontoria's request I agreed to submit his proposal to His Majesty's Government, but I told him frankly that I could not recommend it.

H. E. W.

Madrid, May 25, 1913.

Enclosure 2 in No. 124.

Procès-verbal of Fifty-first Meeting of Tangier Mixed Commission, May 21, 1913.

LA Commission mixte d'internationalisation de Tanger s'est réunie au Palais du Ministère d'État, le mercredi, 21 mai, 1913, à 10 heures et demie du matin.

Le *procès-verbal* de la précédente séance est adopté.

La Commission décide que la réunion des directeurs ou chefs de services municipaux (Finances, Intérieur, Enseignement, Assistance, Hygiène), sous la présidence du chef de l'administration municipale, établira, dans un délai de deux mois, un projet de

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règlement pour le fonctionnement de l'Administration centrale qui sera soumis dans la forme habituelle à l'approbation de l'Assemblée municipale et du Comité de Contrôle.

Pour chaque service ou établissement extérieur rattaché, le service central dont il relève établira un projet de règlement qui sera soumis dans la forme habituelle à l'approbation de l'Assemblée municipale et du Comité de Contrôle.

Les principaux services ou établissements extérieurs rattachés, actuellement à prévoir sont :—

1. Relevant du Département des Finances :

Une recette municipale chargée de toutes les perceptions non expressément exceptées.

2. Relevant du Département de l'Intérieur :

Un service de police, dont il sera ultérieurement parlé ;
Une prison municipale, ou, s'il y a lieu, plusieurs prisons ;
Un service de pompiers.

3. Relevant du Département de l'Enseignement, de l'Assistance et de l'Hygiène publique :

Des écoles ;
Un hôpital, ou s'il y a lieu plusieurs hôpitaux, asiles, crèches, &c. ;
Un Service sanitaire municipal.

M. Padilla revendique que le Service de Santé maritime soit, comme tous les services d'hygiène, rattaché au Département de l'Enseignement, de l'Assistance et de l'Hygiène publique. Mr. White estime que la question de la santé maritime doit être traitée dans son ensemble ; il propose de prévoir qu'un règlement sanitaire maritime applicable à tout le Maroc sera élaboré d'accord entre les trois zones et que l'organe collectif chargé d'en assurer l'exécution sera également constitué du même commun accord.

M. Dupeyrat partage de cette opinion.

M. Padilla déclare que les matières sur lesquelles le Gouvernement espagnol et français ont à se concerter sont définies à l'article 19 de la Convention hispano-française du 27 novembre, 1912. Il ne croit pas que son Gouvernement soit disposé à augmenter la liste de ces matières, mais en tout cas, il ne se trouve pas autorisé à aborder cette question en commission.

Mr. White répond qu'à son avis la Commission est parfaitement qualifiée pour traiter cette question, mais, si M. Padilla ne se considère pas comme ayant les pouvoirs suffisants, la Commission ne peut que laisser aux trois Gouvernements le soin de statuer par entente directe.

Toute création de nouveau service ou établissement extérieur rattaché devra être faite sur la proposition du département central compétent, approuvée par l'Assemblée municipale et le Comité de Contrôle.

Le Comité de Contrôle et l'Assemblée municipale auront un secrétariat chargé de la conservation des archives, de la correspondance de chacune de ces deux assemblées, de la rédaction des procès-verbaux, des réunions et de l'entretien des locaux affectés à l'Assemblée.

Le personnel de ces deux secrétariats sera nommé par chacune des deux assemblées sur la proposition de son président.

Les séances de l'Assemblée municipale seront, en principe, publiques. Elles pourront toutefois être secrètes quand, en raison de la nature des affaires à traiter, la majorité de l'Assemblée en aura ainsi décidé.

Les procès-verbaux des séances seront sur place à la disposition des personnes qui désireront en prendre connaissance.

Le texte des décisions prises sera immédiatement inséré au bulletin des actes officiels de la municipalité.

Les séances du Comité de Contrôle ne sont pas publiques.

M. Dupeyrat propose d'ajouter :—

"Les procès-verbaux des séances, sauf décision contraire du Comité en raison de la nature de l'affaire traitée, seront sur place à la disposition des électeurs qui demanderont à en prendre connaissance.

"Le texte des décisions prises sera immédiatement inséré au bulletin des actes officiels de la municipalité."

Mr. White demande la suppression des mots "en raison de la nature de l'affaire traitée."

M. Dupeyrat déclare qu'il ne comprend pas l'utilité de cette suppression, mais qu'il y consent néanmoins. M. Padilla accepte également la formule ainsi modifiée.

Lorsqu'une délibération du Comité de Contrôle intéresse un des services municipaux le chef de ce service sera entendu avant le vote.

Sauf dans les cas expressément spécifiés les décisions du Comité de Contrôle sont prises à la majorité simple des voix, la voix du président étant prépondérante en cas d'égalité.

La séance est levée à 1 heure et demie.

Enclosure 3 in No. 124.

Procès-verbal of Fifty-second Meeting of Tangier Mixed Commission, held May 23, 1913.

LA Commission mixte d'internationalisation de Tanger s'est réunie au Palais du Ministère d'Etat, le vendredi, 23 mai, à 10 heures et demie du matin.

Le procès-verbal de la précédente séance est adopté.

Mr. White propose l'article suivant relatif à la protection :—

"Les Gouvernements signataires de la présente convention ou y adhérant s'engagent à ne pas créer de nouveaux protégés ou associés agricoles dans la zone internationale.

"Les protégés et associés agricoles existants actuellement dans cette zone y seront, dans la même mesure que les autres indigènes justiciables du tribunal international dès que celui-ci fonctionnera."

M. Dupeyrat accepte si l'article est complété par l'addition suivante, approuvée par M. Padilla :—

"Ils deviendront de même, dans chacune des deux autres zones, justiciables de la nouvelle juridiction locale dès que celle-ci aura été établie et, ainsi que le prévoit le traité du 6 novembre, 1912, accepté par les Puissances."

Mr. White déclare qu'à son avis cette addition sort du programme de la Commission, puisqu'elle a trait à l'abolition de la protection dans les zones française et espagnole du Maroc et non pas dans la zone internationale, mais que, néanmoins, il consent à en référer à son Gouvernement.

M. Dupeyrat remercie Mr. White de vouloir bien en référer à Londres. Il est convaincu que le Gouvernement britannique acceptera sans difficulté ce texte additionnel, car il serait inadmissible que les mêmes protégés perdissent la protection en zone internationale et la conservassent dans le reste du Maroc.

La commission décide :

Les questions sur lesquelles l'Assemblée municipale est appelée à délibérer sont portées à l'ordre du jour par le président.

L'Assemblée ne peut délibérer sur des questions étrangères à l'ordre du jour ; en cas d'infraction à cette disposition, le président doit lever la séance.

L'Assemblée municipale ne peut délibérer valablement qu'autant que vingt-cinq de ses membres sont présents. Lorsque les membres de l'Assemblée ne sont pas réunis en nombre suffisant pour délibérer valablement, le président procède à une seconde convocation pour une nouvelle réunion, qui ne peut avoir lieu qu'après un délai de quarante-huit heures. Les délibérations de cette seconde séance sont valables, quel que soit le nombre des membres présents.

Les délibérations de l'Assemblée municipale sont prises à la majorité des voix des membres présents. En cas de partage, la voix du président est prépondérante. Aucun vote ne peut être émis par un membre présent au nom d'un membre absent.

Les membres de l'Assemblée ne peuvent prendre part à des délibérations relatives aux affaires auxquels ils ont un intérêt, soit dans leur non personnel, soit comme mandataires.

La séance est levée à 1 heure et demie.

Enclosure 4 in No. 124.

Procès-verbal of Fifty-third Meeting of Tangier Mixed Commission, held May 24, 1913.

LA Commission mixte d'internationalisation de Tanger s'est réunie au Palais du Ministère d'État, le samedi, 24 mai, 1913, à 10 heures et demie du matin.

Le procès-verbal de la précédente séance est adopté.

La commission adopte les articles suivants :—

"La municipalité de Tanger ne portera pas atteinte aux droits, prérogatives et privilèges des porteurs de titres des emprunts 1904 et 1910 dans la zone internationale, la municipalité exerçant, de son côté, les droits actuellement réservés au Makhzen.

"La zone internationale supportera les charges desdits emprunts de 1904 et 1910 dans la proportion suivante, laquelle elle contribuera au total des recettes douanières des ports ouverts au commerce, déduction faite de la part revenant, comme il est dit ci-après, à la zone française et à la zone espagnole.

"L'annuité provisoirement fixée au chiffre forfaitaire de sera revisable chaque année, après la mise en exécution du chemin de fer Tanger-Fez, au moyen des statistiques de ce chemin de fer et de celles de la douane, à la demande de l'une ou de l'autre des parties intéressées. La répartition sera faite par les représentants des trois zones intéressées avec le concours du Contrôle de la Dette, ce dernier n'intervenant qu'à titre consultatif.

"Le Contrôle de la Dette tiendra sa comptabilité de manière que les comptes, arrêtés à la fin de chaque année financière, fassent ressortir séparément les revenus de toute nature perçus dans la zone internationale et affectés par les contrats aux services des emprunts. La municipalité pourra vérifier cette comptabilité chaque année.

"Le Gouvernement de la République française déclare être disposé à se prêter à la conversion des emprunts de 1904 et de 1910 à la date la plus rapprochée prévue par les contrats.

"La zone internationale supportera sa part proportionnelle des charges du nouvel emprunt, grâce auquel ceux de 1904 et 1910 auront été remboursés.

"La novation desdits emprunts sera effectuée après entente préalable entre les trois zones.

"Au cas où cette entente ne pourrait se réaliser, notamment à cause des conditions du marché financier, la municipalité de Tanger pourra exiger la capitalisation de sa part des charges afin de s'en libérer au moyen d'un emprunt spécial contracté par elle-même.

"Le Gouvernement de la République française déclare en outre qu'il usera de son influence sur le délégué des porteurs de titres pour que ce dernier afferme à la municipalité, si celle-ci lui en fait la demande, les 'mostafadet' et 'sakkat' ainsi que l'ensemble des biens du Makhzen en zone internationale. Cette location globale serait faite moyennant un prix égal au produit encaissé du même chef pendant l'année qui aura précédé l'acte d'affermage.

"Une réorganisation du service de la douane tendant à l'unification du personnel et à la réduction des frais de fonctionnement pourra être étudiée et s'il y a lieu réalisée d'un commun accord par le Contrôle de la Dette et la municipalité."

La séance est suspendue à 1 heure.

La séance est reprise à 4 heures et demie.

"Représentation des Indigènes."

"La protection des indigènes tangérois et de leurs intérêts à l'étranger sera confiée aux agents diplomatiques et consulaires de la République française, conformément aux dispositions de l'article 5 du traité franco-chérifien.

"Toutefois, et par exception auxdites dispositions, les indigènes tangérois seront, sur le territoire de l'Espagne, assimilés aux indigènes de la zone espagnole au Maroc. Dans les républiques hispano-américaines lesdits indigènes tangérois auront la faculté de s'inscrire à leur choix sur les registres des consulats de l'Espagne ou de la France. Les consuls des deux nations se donneront mutuellement avis de ces inscriptions, qui devront être définitives, l'intéressé usant de son droit d'option une fois pour toutes.

"Les Puissances signataires de la présente convention ou y adhérant s'engageant à

prêter, dès maintenant, dans leurs possessions d'Afrique, leur entier concours aux autorités marocaines pour la surveillance et la répression de la contrebande des armes et des munitions de guerre.

"La surveillance dans les eaux territoriales de la zone internationale sera exercée par les forces navales espagnoles.

"Police."

"La police municipale comprendra :

"1. Un corps de police militaire composé de deux tabors, l'un à cheval et l'autre à pied.

"L'effectif total du corps de police militaire sera fixé par la municipalité. Son commandement sera confié à un officier espagnol du grade au moins de capitaine, assisté d'officiers subalternes de nationalités diverses. Toutefois, dans la première organisation le cadre des officiers sera emprunté aux tabors actuels de Tanger et composé en nombre égal d'Espagnols et de Français.

"2. Un corps de police civile dont l'effectif sera fixé par la municipalité, composé d'agents européens et indigènes et qui sera placé sous les ordres d'un commissaire central français. Ce dernier sera assisté de commissaire de police et gradés de nationalités diverses. Le commissaire chargé de remplacer le commissaire central en cas d'absence ou d'empêchement sera espagnol."

La séance est levée à 8 heures du soir.

Enclosure 5 in No. 124.

Article accepted by M. Dupeyrat and Mr. White.

TANT que le Comité des Valeurs douanières et le Comité spécial des Travaux publics subsisteront, il sera réservé à la désignation de l'Assemblée municipale, avec approbation du Comité de Contrôle, un des sièges de délégué chérifien dans chacun des deux Comités.

Les deux délégués chérifiens dans la Commission générale des Adjudications et des Marchés seront désignés par l'Assemblée municipale avec approbation du Comité de Contrôle, quand il s'agit des travaux publics ou de marchés intéressant la zone internationale ; ils seront désignés par le Khalifa de la zone espagnole quand il s'agit de travaux publics ou de marchés intéressant cette zone, et par Sa Majesté le Sultan quand il s'agit de travaux publics ou de marchés intéressant la zone française.

Le produit de la taxe spéciale perçue à Tanger sera intégralement versé à la Banque d'État pour le compte de la municipalité, qui décidera pour son territoire, comme les autorités des deux autres zones pour les leurs, le programme des travaux et leur ordre de priorité.

Les adjudications de travaux publics continueront d'être régies par les stipulations de l'Acte d'Algésiras et par les dispositions des règlements sur l'adjudication établis en conformité des articles 66 et 110 de cet Acte, le Comité spécial des Travaux publics et la Commission générale des Adjudications et des Marchés étant recrutés comme il est dit ci-dessus.

Les travaux exécutés avec le concours d'autres ressources que les fonds municipaux ne relèvent pas du service municipal, mais ces travaux peuvent, après exécution, être remis à la municipalité et, à partir du moment de la remise, ils relèvent du service municipal.

Si certains services municipaux sont assurés par des particuliers, des sociétés concessionnaires ou permissionnaires, le contrôle en est exercé par le service des travaux publics, sauf dans les cas où il en est disposé autrement par les conventions ou règlements intervenus.

Le service des travaux publics de la taxe spéciale est maintenu dans son organisation actuelle pour la durée de la présente convention, c'est-à-dire conservera son ingénieur principal et son adjoint espagnol.

Le service des travaux publics de la taxe spéciale est maintenu dans son organisation actuelle pour la durée de la présente convention, c'est-à-dire conservera un ingénieur principal français et un adjoint espagnol. Toutefois, pour la composition du personnel du service, on appliquera la formule indiquée à l'article

Le service ainsi constitué et payé par les trois zones au prorata de la part encaissée par chacune d'elles sur le produit de la taxe spéciale, sera chargé de tous les travaux intéressant la municipalité. S'il en résulte un dépassement de la dépense actuelle du service, qui s'élève à la somme de 210,000 fr. par an, le surplus sera à la charge exclusive de la municipalité.

Amendment proposed by M. Hontoria as alternative for the last paragraph above:—

"Pour assurer un meilleur fonctionnement du service, les fonctions lui incombant seront distribuées entre les deux ingénieurs certaines affaires ou catégories de travaux restant exclusivement rattachées au bureau de l'ingénieur adjoint.

"Le service ainsi constitué et payé par la zone internationale au prorata de sa part sur le produit de la taxe spéciale, et, par les deux autres zones, à parts égales, sera chargé de toutes les questions de travaux publics sans exception intéressant la municipalité. S'il en résulte un dépassement de la dépense actuelle, qui s'élève à la somme de 210,000 fr. par an, le surplus sera à la charge exclusive de la municipalité."

[24578]

No. 125.

Board of Trade to Foreign Office.—(Received May 29.)

(Confidential.)

Sir,

Board of Trade, May 28, 1913.

I AM directed by the Board of Trade to advert to your letter of the 13th May with its enclosures, relative to a proposed concession for the construction and exploitation of port works at Tangier.

With regard thereto, I am to state that in all the circumstances, and having regard to the desirability of the works in question being carried out at the earliest possible date, the Board are disposed to concur in what they understand to be Sir E. Grey's opinion, that His Majesty's Government may properly waive their objection to the construction of the works being undertaken by a concessionaire prior to the establishment of the Tangier municipality.

The Board are further of opinion that in view of the apparent improbability of the contract, if put up to public tender, being obtained by any British firm, it might be advisable that His Majesty's Government should acquiesce in the grant thereof to a selected syndicate, such as the subsidiary company formed by the Société marocaine de Travaux publics, but subject absolutely to the conditions recommended by Mr. White in the ante-penultimate paragraph of his despatch of the 30th April. They concur, however, in Sir E. Grey's proposal to ascertain the views of certain firms of contractors before a final decision is taken, and they would suggest that in addition to Messrs. Pearson and Messrs. Jackson, Messrs. Topham, Jones, and Railton, should also be consulted on the subject.

I am, &c.

GEO. J. STANLEY.

[24673]

No. 126.

Sir M. de Bunsen to Sir Edward Grey.—(Received May 29.)

(No. 19.)

(Telegraphic.) R.

Madrid, May 29, 1913.

THE French delegate maintains that municipality cannot have diplomatic dealings with the Powers except through the Sultan's Minister for Foreign Affairs; he concludes from this that foreign representatives at Tangier are not qualified to act as intermediaries between their Governments and the municipality. For instance, if a British judge is to be appointed at Tangier the French delegate contends that the request to His Majesty's Government to select the judge must be made through the French Resident-General at Rabat, and not through the British agent at Tangier. He bases this contention on article 3 of the Franco-German agreement, article 5 of the Franco-Moorish treaty, and article 1 of the Franco-Spanish convention.

White refused to accept this interpretation, but consented to refer the point to you as the French delegate declared that his Government could not yield on it.

I think that the French effort to reduce the powers of the foreign representatives at Tangier should be resisted. The Spanish Government will certainly resist.

[23922]

No. 127.

Sir Edward Grey to Mr. White.

Sir,

Foreign Office, May 29, 1913.

I HAVE received from Sir M. de Bunsen the minutes of the 45th-50th meetings of the Tangier Mixed Commission, together with your memorandum of the 21st instant, and I approve the various administrative arrangements decided upon at those meetings.

I am, &c.

E. GREY.

[24549]

No. 128.

Sir Edward Grey to Sir M. de Bunsen.

(No. 18.)

(Telegraphic.) R.

Foreign Office, May 30, 1913.

YOUR despatch No. 99: Tangier Public Works Department.

Please inform Mr. White that, whilst His Majesty's Government are willing to accept draft article agreed to by him and by French delegate, they are altogether opposed to division of the department into sections, which would result from adoption of the amendment suggested by Spanish Government.

I agree that question of Board of Health is within competence of the commission, and consider that decision reached at 51st meeting should be maintained.

I share Mr. White's apparent objection to the system of allotting so many posts to particular nationalities, and he should make it clear that this is a question into which His Majesty's Government must claim full liberty to examine when the draft agreement now being negotiated *ad referendum* comes before them. Apart from fact that other Treaty Powers are likely to raise objections, it seems difficult to defend an indefinite perpetuation of first division of appointments by nationalities. If the principle is accepted at all, its application should at least be limited to a certain period of time, after which municipal authorities ought in the interest of good administration to be free to select best qualified candidates, whatever their nationality, provided that undue numerical preponderance of any one nationality is avoided at the particular time.

[24673]

No. 129.

Sir Edward Grey to Sir M. de Bunsen.

(No. 19.)

(Telegraphic.) R.

Foreign Office, May 30, 1913.

YOUR telegram No. 19 of 29th May: Tangier Municipality and foreign Powers.

Contention of French delegate seems theoretically unsound, since it involves interference with the autonomy of the Tangier zone. The French Resident-General, the Spanish Commissioner, and the Tangier Municipality have each in their respective spheres delegated to them the administrative authority of the Sultan, and are at liberty to use the most convenient machinery for putting and keeping the administration in working order. But principal objection to French proposal is that it involves also great practical inconvenience. Nor is it clear what advantage is to be gained by French Government, except to enhance French prestige at expense of municipality, for Resident-General, under M. Dupeyrat's theory, could only act formally and as a forwarding office, since any attempt of French authorities at Rabat to alter or override decision of Municipal Assembly, whereon France is represented, would arouse general resentment and protest.

[24948]

No. 130.

Mr. Kennard to Sir Edward Grey.—(Received May 31.)

(No. 154. Confidential.)

Sir,

Tangier, May 24, 1913.

WITH reference to my despatch No. 145 of the 17th instant, I have the honour to report that I have had some conversation with my colleagues as to the reasons for

which the Spanish Government have taken the initiative in proposing the suppression of foreign protection in the Tangier zone.

The French agent states that he knows nothing of the Spanish proposal, but thinks that it must be due to the fear that natives who may intrigue against the Spanish authorities in their zone may come here and seek foreign protection. He is of the opinion that the move is especially directed against Raisuli, who, as is well known, has been seeking protection from every legation, except the Spanish, in turn. I agreed with M. de Valdrôme that it was highly undesirable that Raisuli should receive protection from anyone, as he would merely use it as a cloak for intrigue of every kind, which could not be beneficial to the future interests of Tangier.

It is, of course, possible that Raisuli, who is not as young as he was, may wish to settle down quietly at Tangier, and wishes foreign protection for his properties in the Spanish zone. The fact remains that at the present moment he is at Zinats, and is said to be doing all he can secretly to stir up the tribes to revolt.

The German Minister also considers that the Spanish proposal is especially directed against Raisuli. Baron Seckendorff told me in confidence that, while he personally was opposed to such a proceeding, he feared that the Mannesmann Brothers, who have close business relations with Raisuli, will bring so much pressure to bear on him that he will be compelled to grant the Kaïd protection. I pointed out to the Baron how highly objectionable such a proceeding would be, as Raisuli, who apparently intends to settle here, will doubtless always be engaged in intrigues against the Spanish authorities, and even perhaps against the future municipality. Baron Seckendorff quite agreed with this point of view, but feared that his representations would have no effect in view of the Mannesmann attitude. He further told me that Raisuli's brother, who is now acting as the Kaïd's khalifa at Arzila, had German protection.

I gather that in the question of political protection the Germans, who are perhaps the worst offenders in abuses of this nature, are most uncompromising in their refusal to consider any request on the part of the Makhzen to return to a more strict observance of the treaty provisions on this point. The Austrian Chargé d'Affaires, who generally follows the advice of his German colleague, is also maintaining a similar attitude.

I understand that the proposals made by the Spanish representatives in various minor capitals vary in many respects: in some cases the total suppression of protection in the Tangier zone is suggested; in others it is merely proposed that no fresh requests for protection in the future should be granted.

I have, &c.

H. W. KENNARD.

[24951]

No. 131.

Mr. Kennard to Sir Edward Grey.—(Received May 31.)

(No. 157.)

Sir,

Tangier, May 24, 1913.

WITH reference to my despatch No. 148 of the 17th instant, I regret that I cannot report any improvement in the situation in the Spanish zone.

Incidents are daily reported on the Tangier-Tetuan and Tetuan-Ceuta roads. The postal couriers on the former have been stopped and the mails stolen, and Spanish patrols have on two occasions been attacked by tribesmen. The tribes are said to be continually holding meetings to decide on a common course of action. Raisuli has gone to Zinats, which is just outside the south-east corner of the Tangier zone. My Spanish colleague believes him to be intriguing there with the tribes; on the other hand, I hear from other sources that he is endeavouring to curry favour with the tribes with a view to the protection of his property in case of disturbances. He would not in any case presumably be so foolish as openly to conspire against the Spanish authorities, and thus expose himself to the risk of imprisonment and of the confiscation of his properties.

Señor López Roberts informs me that heavy reinforcements are being sent to Laraiche with a view to assuming the offensive in the Alcazar district. It is clear that the policy of peaceful penetration and not moving into the interior has not been successful, and only inspires the tribes with contempt for the Spanish lack of energy. If the military authorities now intend to assume the offensive, it is to be hoped that they will have profited by their Melilla experience, and will not expose themselves to

the possibility of severe reverses in the difficult country in which they will have to operate.

I fear that the lack of authority in the Tangier zone is affecting the security in the outlying districts here. Three murders were reported there yesterday, and robberies of cattle, &c., are very frequent. I am afraid that this state of insecurity will not improve if hostilities break out in the Spanish zone, and if the negotiations in Madrid are unduly protracted. It is indeed surprising that the administration of the Tangier district should proceed so smoothly when one considers that it is passing through a stage of complete anarchy.

With regard to Franco-Spanish local relations referred to in my despatch No. 148, I have succeeded in obtaining a copy of the note addressed to the doyen of the Corps diplomatique regarding foreign claims in the Spanish zone, and I have the honour to enclose it herewith.

My Spanish colleague tells me that the circular covering it was sent to him first for annotation, and that he has, under the instructions of his Government, adopted the doubtful remedy of keeping it at his legation, and thus somewhat irregularly suppressing it. You will observe that the note states that all claims incapable of settlement by the local authorities in the Spanish zone should be referred to Sid Guebbas, as representative of the Shereefian Minister for Foreign Affairs (General Lyautey) for submission to the Spanish Resident-General. It is difficult to understand why the authorities at Rabat should go out of their way to create difficulties for the Spanish authorities in this manner.

I have, &c.

H. W. KENNARD.

Enclosure in No. 131.

Sid Guebbas to the Doyen of the Corps diplomatique.

(Compliments.)

NOUS avons l'honneur de vous informer que nous avons reçu des ordres du Makhzen chérifien pour informer l'honorable Corps diplomatique, dont vous faites partie, que, d'après les lettres annexées à l'accord franco-espagnol, toutes les réclamations qui ont lieu dans la zone espagnole qui ne peuvent pas être résolues par les gouverneurs locaux et qu'on a besoin de négocier entre les représentants des Puissances étrangères et le Résident général espagnol, qu'elles nous soient transmises pour les soumettre audit Résident espagnol dans notre qualité de représentant du Ministre des Affaires Étrangères du Gouvernement chérifien.

(Salut.)

Le 4 yomada, 1331 (11 mai, 1913).

[24883]

No. 132.

Viscount Kitchener to Sir Edward Grey.—(Received May 31.)

(No. 54.)

Sir,

Cairo, May 24, 1913.

WITH reference to my despatch No. 38 of the 27th ultimo, I have the honour to inform you that the Spanish agent and consul-general has officially notified to the Egyptian Government that a treaty was signed between Spain and France on the 27th November last respecting Morocco and is now in force, article 22 of which lays down that Moorish subjects from the Spanish zone of influence when abroad will be placed under the protection of the Spanish diplomatic and consular agents.

M. Vallin has requested the Minister for Foreign Affairs to make the above known to the various Egyptian authorities so that any such Moorish subjects residing in Egypt may be considered as under Spanish protection with the rights and immunities recognised by treaty and in practice.

I assume that any decision which you may come to with regard to French Moorish subjects will apply equally to Moors from the Spanish sphere of influence in Morocco, and I should be glad to receive your instructions on both these questions in

[1613]

3 P

order that I may be able to advise the Egyptian Minister for Foreign Affairs as to the action he should take in the matter.

I have, &c.
KITCHENER.

[25249]

No. 133.

Sir M. de Bunsen to Sir Edward Grey.—(Received June 2.)

(No. 102.)

Sir,

Madrid, May 29, 1913.

I HAVE the honour to forward a memorandum by Mr. White reporting the further proceedings of the Mixed Commission and enclosing *procès-verbaux*.

M. Geoffray and I propose to make another effort to secure unanimity on outstanding points by means of a personal appeal to the Minister of State.

I have, &c.

MAURICE DE BUNSEN.

Enclosure 1 in No. 133.

Memorandum by Mr. White.

I TRANSMIT herewith copies of the *procès-verbaux* of the 54th to 57th meetings of the Mixed Commission. The former was occupied entirely with the discussion of the question of public works, on which I reported in my memorandum of the 25th instant, enclosed in Sir M. de Bunsen's despatch No. 99 of the 26th instant.

At the 55th meeting it was decided to constitute boards of selection to choose the various employees of the municipality. As all the candidates for each post will be of the same nationality, there will be no fear of a repetition of the unfortunate incident of the veterinary surgeon. It was considered advisable to adopt this mode of selection so as to avoid the appointment of unfit persons who may be recommended to their Governments by influential friends. M. Dupeyrat tells me that they often find it difficult to resist the pressure brought to bear upon them in such cases by the friends of applicants for posts.

Both M. Dupeyrat and M. Padilla insisted on the insertion of an article to protect existing schools, hospitals, &c. I considered that such establishments should conform to any regulations which the municipality might make, but I could not obtain the acceptance of my views. The article finally adopted was in the nature of a compromise.

The Commission approved a provisional "règlement intérieur," which I had drafted, to govern the proceedings of the Municipal Assembly until they have framed their own regulations.

M. Padilla and I devoted the whole day yesterday to carefully examining and comparing with the *procès-verbaux* the draft of a portion of the firman which M. Dupeyrat had prepared embodying the various decisions already arrived at by the Mixed Commission. It was thought better to at once commence putting our various decisions into shape so that they may be copied whilst we continue the discussions of the remaining points. The drafting of a further portion of the firman occupied the sitting this morning.

M. Hontoria attended a further meeting we held this afternoon to again discuss the subject of the "Commissaire Administrateur," but, unfortunately, it was found impossible to reconcile the divergent views of M. Dupeyrat and M. Hontoria. The difference between them was, however, reduced to smaller dimensions, and I trust that further intervention on the part of the Ambassadors and the Minister of State may lead to the discovery of a formula acceptable to both parties.

It is proposed to make the convention binding for a term of twelve years, so that its conclusion may coincide with the date at which the loans of 1904 and 1910 will be paid off or converted. That would appear to be an opportune moment for considering what modifications should be introduced. The distribution of posts amongst the different nationalities would be for the same term.

H. E. W.

Madrid, May 28, 1913.

Enclosure 2 in No. 133.

Procès-verbal of Fifty-fourth Meeting of Tangier Mixed Commission, held May 25, 1913.

La Commission mixte d'internationalisation de Tanger s'est réunie au Palais du Ministère d'État, le dimanche, 25 mai, à 10 heures et demie du matin.

Le procès-verbal de la précédente séance est adopté.

La Commission adopte l'article suivant :—

"Tant que le Comité des Valeurs douanières et le Comité spécial des Travaux publics subsisteront, il sera réservé à la désignation de l'Assemblée municipale, avec approbation du Comité de Contrôle, un des sièges de délégué cherifien dans chacun des deux comités.

"Les deux délégués cherifiens dans la Commission générale des Adjudications et des Marchés seront désignés par l'Assemblée municipale, avec approbation du Comité de Contrôle, quand il s'agira de travaux publics ou des marchés intéressant la zone internationale ; ils seront désignés par le Khalifa de la zone espagnole quand il s'agira de travaux publics ou de marchés intéressant cette zone, et par Sa Majesté le Sultan quand il s'agira de travaux publics ou de marchés intéressant la zone française.

"Le produit de la taxe spéciale perçue à Tanger sera intégralement versé à la Banque d'État pour le compte de la municipalité, qui arrêtera, pour son territoire, comme des autorités des deux autres zones pour le leur, le programme des travaux et leur ordre de priorité.

"Les adjudications de travaux publics continueront d'être régies par les stipulations de l'Acte d'Algésiras et par les dispositions des règlements sur les adjudications établis en conformité des articles 66 et 110 de cet Acte le Comité spécial des Travaux publics et la Commission générale des Adjudications et des Marchés étant recrutés comme il est dit ci-dessus.

"Les travaux exécutés avec le concours d'autres ressources que les fonds municipaux ne relèvent pas du service municipal, mais ces travaux peuvent, après exécution, être remis à la municipalité et, à partir du moment de la remise, ils relèvent du service municipal.

"Si certains services municipaux sont assurés par des particuliers, des sociétés concessionnaires ou permissionnaires, le contrôle en est exercé par le service des travaux publics, sauf dans le cas où règlements intervenus."

M. Dupeyrat propose l'addition suivante, que Mr. White accepte :—

"Le service des travaux publics de la taxe spéciale est maintenu dans son organisation actuelle pour la durée de la présente convention, c'est-à-dire conservera son ingénieur principal français et son adjoint espagnol, à moins que le régime de la taxe spéciale elle-même ne soit entre-temps supprimé ou réformé. Toutefois, pour la composition du personnel du service on appliquera la formule indiquée à l'article

"Le service ainsi constitué et payé par les trois zones au prorata de la part encaissée par chacune d'elles sur le produit de la taxe spéciale sera chargé de toutes les questions de travaux publics sans exception intéressant la municipalité ; s'il en résulte un dépassement de la dépense actuelle, qui s'élève à la somme de 210,000 fr. par an, le surplus sera à la charge exclusive de la municipalité."

M. Padilla serait disposé à accepter le paragraphe premier du projet d'addition ci-dessus, si le deuxième paragraphe était remplacé comme suit :—

"Pour assurer un meilleur fonctionnement du service, les fonctions lui incombant sont distribuées entre les deux ingénieurs, certaines affaires ou catégories de travaux restant exclusivement rattachées au bureau de l'ingénieur adjoint.

"Le service, ainsi constitué et payé par la zone internationale au prorata de sa part sur le produit de la taxe spéciale et par les deux autres zones à parts égales, sera chargé de toutes les questions de travaux publics sans exception intéressant la municipalité. S'il en résulte un dépassement de la dépense actuelle, qui s'élève à la somme de 210,000 fr. par an, le surplus sera à la charge exclusive de la municipalité."

Mr. White préférerait l'ensemble de l'article proposé par M. Dupeyrat, mais consent volontiers néanmoins à soumettre à l'appréciation de son Gouvernement l'amendement de M. Padilla.

M. Dupeyrat pense que sa proposition contenait une solution plus pratique et plus simple de la question à résoudre et que la Commission mixte était qualifiée pour l'adopter, mais, comme Mr. White, il ne croit pas devoir se refuser à soumettre l'amendement de M. Padilla à l'appréciation de son Gouvernement.

La séance est levée à 1 heure et demie.

Enclosure 3 in No. 133.

Procès-verbal of Fifty-fifth Meeting of Tangier Mixed Commission, held May 26, 1913.

La Commission mixte d'internationalisation de Tanger s'est réunie au Palais du Ministère d'État, le lundi, 26 mai, 1913, à 10 heures et demie du matin.

Le procès-verbal de la précédente séance est adopté.

La Commission adopte l'article suivant :—

"Tous les fonctionnaires et agents de la municipalité, sauf les exceptions expressément prévues, seront recrutés par voie de concours sur titres.

"La Commission chargée de procéder au classement des candidats, lorsqu'il s'agira de pourvoir à une vacance de chef de département ou de service autonome, sera composée de l'agent et consul général de la nationalité intéressée, président, et des personnalités les plus compétentes désignées par le Comité de Contrôle.

"Lorsqu'il s'agira de tous autres emplois, la Commission de classement sera composée du chef de département ou de service autonome intéressé, d'un délégué de l'agent et consul général de la nationalité également intéressée et d'un membre désigné par l'Assemblée municipale.

"Les candidats, dûment autorisés à concourir par l'autorité nationale dont ils relèvent, présenteront leurs dossiers par l'entremise de l'agence et consulat général de leur pays d'origine.

"Le candidat désigné par la Commission de Classement sera nommé, sur la proposition de son président, par le chef de l'Administration municipale.

"La décision ci-dessus tranche la question laissée en suspens à la fin de la 20^e séance, sous la double réserve toutefois alors formulée par MM. Padilla et Dupeyrat quant à la personnalité du chef de l'Administration municipale."

La Commission adopte l'article suivant :—

"Les établissements d'intérêt général, scolaires, hospitaliers, missions religieuses ou de bienfaisance, ainsi que l'Institut Pasteur, de toutes nationalités, actuellement existant sur le territoire de la zone internationale conserveront leur entière autonomie en ce qui concerne leur fonctionnement intérieur sous la surveillance de l'autorité de leur pays d'origine. La municipalité n'aura en aucun cas le droit de immiscer dans leur fonctionnement ni d'entraver leur développement.

"Autorisation sera accordée par la municipalité pour l'installation à l'avenir de tout établissement semblable de quelque nationalité que ce soit, sous condition qu'il se conforme aux règlements municipaux en vigueur sur la matière.

"Toute église, école gratuite, hôpital gratuit, mission religieuse ou autre établissement charitable déjà existant ou qui sera ouvert à l'avenir sera, en reconnaissance des services qu'il rend, exempté de la taxe sur les constructions urbaines et des droits de douane sur les médicaments ou autres objets destinés à la charité."

La Commission approuve le projet de Règlement intérieur provisoire de l'Assemblée municipale préparé par Mr. White :—

"Règlement intérieur provisoire.

"Article 1^{er}. L'Assemblée municipale se réunit en séance ordinaire une fois par mois.

"Elle peut se réunir en séance extraordinaire conformément à l'article du firman chérifien.

"Art. 2. L'ordre du jour des séances, tant ordinaires qu'extraordinaires, sera communiqué aux membres par écrit à domicile.

"Cette communication sera faite pour les séances ordinaires, au plus tard, trois jours avant la séance.

"Tout ordre du jour sera également communiqué au président du Comité de Contrôle. Si l'ordre du jour d'une séance, soit ordinaire, soit extraordinaire, n'est pas épuisé, la discussion sera continuée les jours suivants.

"Les séances sont ouvertes à l'heure fixée, aussitôt que l'Assemblée est en nombre légal. Si ce nombre n'est pas atteint après une demi-heure, la séance est ajournée et, après un délai de quarante-huit heures au plus tôt et dans huit jours au plus tard, l'Assemblée se réunit de nouveau ; les délibérations de cette seconde séance ne pourront porter que sur les seules questions qui figuraient à l'ordre du jour de la séance ajournée ; les lettres de convocation rappelleront qu'il sera délibéré valablement quel que soit le nombre des membres présents, tant dans cette nouvelle séance que dans celles qui suivraient, conformément à l'alinéa précédent, jusqu'à complet épuisement de l'ordre du jour.

"Les membres qui seraient empêchés d'assister à une ou plusieurs séances donneront avis de cet empêchement au président, à défaut de quoi l'absence sera considérée comme non justifiée.

"Les absences non justifiées seront signalées aux procès-verbaux.

"Art. 3. En cas d'absence ou d'empêchement du président, ses attributions passent au vice-président ; en cas d'absence ou d'empêchement de ce dernier, ces attributions sont exercées par le plus âgé des membres de l'Assemblée présente à la séance et, si celui-ci ne les assume point, par un autre membre de l'Assemblée, suivant rang d'âge.

"Art. 4. Le président a la police de l'Assemblée.

"A l'ouverture de chaque séance, il est donné lecture du procès-verbal de la séance précédente, si ce procès-verbal n'a pas été distribué aux membres de l'Assemblée.

"Le procès-verbal mentionne les noms des membres qui ont pris part aux délibérations et de ceux qui ont été absents ou qui se sont retirés de la séance. Il contient le résumé des discussions importantes et les décisions prises avec indication du nombre de suffrages émis pour ou contre elles et du rapporteur, s'il y en a eu un.

"Après approbation par l'Assemblée, le procès-verbal est signé par le président et contre-signé par le secrétaire.

"Un expédition en est adressée, par le président, au président du Comité de Contrôle dans le délai de trois jours à partir du jour de l'approbation.

"Le président enverra au président du Comité de Contrôle, dans les quarante-huit heures qui suivront la séance, le compte rendu sommaire des résolutions prises par l'Assemblée.

"Art. 5. Après lecture, s'il y a lieu, du procès-verbal de la séance précédente le président donne communication à l'Assemblée des décisions et lettres intervenues du Comité de Contrôle. Il donne également communication, à telles fins que l'Assemblée jugera utiles, de toutes dépêches, lettres, pétitions ou autres documents pouvant l'intéresser, sauf les écrits anonymes.

"Art. 6. Dans les discussions on ne peut se servir que des langues arabe, française et espagnole.

"Art. 7. La parole est accordée suivant l'ordre des demandes.

"Chaque membre qui n'a pas encore pris la parole aura la priorité sur celui qui a déjà parlé sur la même question.

"Lorsque le président prend part à la discussion, il cède sa place au vice-président jusqu'à ce que la discussion de l'objet sur lequel il a pris la parole ait été épuisée et que le vote soit intervenu ; il observe, pendant ce temps, les règles applicables aux autres membres de l'Assemblée.

"Le vice-président, lorsqu'il préside la séance et veut prendre part à la discussion, est remplacé par le doyen d'âge de l'Assemblée.

"Art. 8. Chaque membre parle de sa place et doit se renfermer dans la question soumise à la délibération. Il ne peut y avoir d'interpellation de collègue à collègue.

"Art. 9. Nul ne peut être interrompu si ce n'est pour un rappel au règlement.

"Le rappel au règlement peut être demandé au président par chaque membre.

"Le président peut retirer la parole à tout membre qui enfreint quelque disposition du règlement, blesse les convenances ou s'écarter de la question.

"Art. 10. Si un membre, après avoir reçu deux avertissements du président, continue à s'écarter de ses devoirs dans la même discussion, le président consulte

l'Assemblée pour savoir si la parole ne lui sera pas interdite sur la même question pour le reste de la séance.

"Art. 11. La parole doit toujours être accordée lorsqu'elle est demandée sur la position de la question ou pour rappel au règlement ou en réponse à un fait personnel. Dans ces deux derniers cas, il y a priorité sur la discussion de question principale.

"Art. 12. Lors du vote, la question préalable, la question d'ajournement et les amendements, lorsqu'il en est fait, ont la priorité sur la question principale, et de même les sous-amendements sur les amendements.

"En matière d'allocation le vote devra toujours porter, d'abord, sur la proposition comportant l'allocation la plus élevée en continuant, s'il y a lieu, par celle relative à l'allocation immédiatement inférieure, et ainsi de suite jusqu'à l'allocation la plus basse.

"Art. 13. L'Assemblée pourra décider, notamment en matière de règlements, de budgets et de taxes, que la discussion sera scindée et aura lieu sur l'ensemble de la proposition d'abord par articles ensuite.

"Art. 14. Les membres qui voudront proposer des amendements devront les présenter par écrit.

"Art. 15. Tout membre qui veut faire une proposition la signe et la dépose entre les mains du président. Après que lecture en a été donnée à l'Assemblée, l'auteur peut développer verbalement les motifs de sa proposition, et, si elle est appuyée par trois membres, elle est portée à l'ordre du jour d'une des prochaines séances, à moins que, pour cause d'urgence extrême, l'Assemblée ne décide qu'elle sera discutée séance tenante—décision qui sera immédiatement portée à la connaissance du président du Comité de Contrôle.

"Toute proposition qui n'a pas été appuyée ou qui a été rejetée ne pourra être présentée de nouveau qu'après un délai de trois mois, si ce n'est sur une demande écrite motivée et revêtue de la signature de dix-huit membres au moins.

"Lorsque, au cas d'abstention du président ou de vote au scrutin secret, l'égalité de voix se produit sur une proposition, celle-ci sera soumise à un second tour de scrutin, et si celui-ci ne donne pas de résultat le troisième et dernier tour aura lieu à la séance suivante.

"Art. 16. L'auteur d'une proposition a le droit de la retirer à n'importe quel moment de la discussion. La proposition ainsi abandonnée peut être reprise par un autre membre.

"Art. 17. Tout membre peut interpeller le chef de l'administration ou un chef de service, qui répondront séance tenante ou à la prochaine séance ordinaire. L'interpellation, toutefois, ne peut avoir pour objet qu'une question de nature exclusivement municipale.

"Toute interpellation sera portée par écrit à la connaissance du président de l'Assemblée, qui en avise, au plus tard la veille de la séance, l'autorité intéressée.

"L'auteur de l'interpellation pourra la développer immédiatement après les communications réglementaires si le fonctionnaire interpellé accepte le débat. Au cas contraire, l'Assemblée en fixe la date.

"Art. 18. Si cinq membres demandent la clôture d'une discussion, le président la met aux voix.

"Avant de clore la discussion, le président, en cas de doute, consulte l'Assemblée pour savoir si elle est suffisamment instruite.

"La discussion, déclarée close à la suite d'un vote de l'Assemblée, ne pourra être reprise sous une autre forme.

"Art. 19. Après avoir prononcé la clôture le président met la question aux voix.

"Les membres de l'Assemblée expriment leur vote par main levée, à moins que quatre membres ne réclament le vote secret. Les questions soumises à ce mode de votation doivent être rédigées de manière que le vote puisse être exprimé par oui ou non.

"Pour les nominations, et quand il s'agit d'une question de personne, le vote a lieu au scrutin secret.

"Le vote suit immédiatement la déclaration de clôture et ne peut être interrompu. Le président vote le dernier.

"Art. 20. Toutes les fois que l'Assemblée le juge nécessaire, le procès-verbal peut être rédigé et approuvé séance tenante, en tout ou en partie."

La séance est levée à 1 heure trois quarts.

Enclosure 4 in No. 133.

Procès-verbal of Fifty-sixth Meeting of Tangier Mixed Commission, held May 28, 1913.

LA Commission mixte d'internationalisation de Tanger s'est réunie au Palais du Ministère d'État, le vendredi, 28 mai, 1913, à 10 heures et demie.

Le procès-verbal de la précédente séance est adopté.

La Commission procède à la revision du texte des articles à insérer dans le projet de firman. Elle examine les articles numérotés au projet codifié de 1 à 87.

La séance est levée à 2 heures et demie.

Enclosure 5 in No. 133.

Procès-verbal of Fifty-seventh Meeting of Tangier Mixed Commission, held May 28, 1913.

LA Commission mixte d'internationalisation de Tanger s'est réunie au Palais du Ministère d'État, le vendredi, 28 mai, 1913, à 4 heures et demie du soir.

Le procès-verbal de la précédente séance est adopté.

La Commission, examinant à nouveau la question du commissaire-administrateur, cherche s'il lui est possible d'arriver à un accord.

MM. Padilla et Dupeyrat déclarent comme conclusion du débat qu'ils ne peuvent pas se faire mutuellement d'autres concessions que celles qui résultent des deux nouvelles formules ci-après :—

1. Formule de M. Padilla.

"Le commissaire-administrateur est nommé par le Comité de Contrôle.

"Il est choisi parmi les administrateurs de carrière d'une Puissance n'ayant pas à Tanger de représentation officielle spéciale.

"Il promulgue les décisions à l'Assemblée municipale dûment approuvées par le Comité de Contrôle; il les notifie aux chefs de services; il en inspecte l'exécution sans intervenir dans le fonctionnement des services; il établit un rapport annuel sur la gestion des affaires municipales et signale par des rapports spéciaux à l'Assemblée municipale toutes les mesures qu'il lui paraît utile de provoquer pour en assurer l'exécution des décisions de l'Assemblée.

"Il remplit, par délégation de celle-ci, toutes les fonctions qui lui sont d'une façon spéciale déléguées."

2. Formule de M. Dupeyrat.

"Le pouvoir exécutif est confié à un commissaire-administrateur chargé de représenter la municipalité à l'égard des tiers, de promulguer les décisions prises par l'Assemblée municipale et dûment approuvées par le Comité de Contrôle, de les notifier aux chefs des services intéressés et d'en assurer l'exécution, sans intervenir directement dans le fonctionnement desdits services.

"Il est nommé par le Comité de Contrôle et choisi parmi les administrateurs de carrière d'une Puissance n'ayant pas à Tanger de représentation officielle spéciale."

Mr. White propose la formule suivante comme intermédiaire entre les deux précédentes :—

"Le pouvoir exécutif est confié à un commissaire-administrateur chargé de promulguer les décisions prises par l'Assemblée municipale et approuvées par le Comité de Contrôle, de les communiquer aux chefs de service intéressés et d'en assurer l'exécution, sans intervenir directement dans le fonctionnement des services.

"Le commissaire-administrateur n'a pas de pouvoirs indépendants; il est entièrement sous l'autorité de l'Assemblée municipale et du Comité de Contrôle.

"En cas de désaccord entre le commissaire-administrateur et un chef de service sur la manière de donner suite à une décision de l'Assemblée, dûment approuvée par

le Comité de Contrôle, il en est référé à l'Assemblée municipale, ou, si celle-ci n'est pas en session, au Comité de Contrôle, qui tranchera la question ou la soumettra à l'Assemblée municipale, qui, en cas d'urgence, sera convoquée en session extraordinaire à ces fins.

"Le commissaire signe les nominations, il passe tous actes et contrats, dûment autorisés, et il représente la municipalité en justice à l'égard des tiers."

MM. Dupeyrat et Padilla regrettent de ne pas pouvoir accepter cette proposition.

La séance est levée à 7 heures et demie.

[25251]

No. 134.

Sir M. de Bunsen to Sir Edward Grey.—(Received June 2.)

(No. 104. Very Confidential.)

Sir,

Madrid, May 30, 1913.

IN the enclosed Very Confidential memorandum Mr. White explains the position taken up by the French delegate on the question of the manner in which foreign Governments should be approached with regard to certain appointments as to which the choice will rest with those Governments. The point is briefly stated in my telegram No. 19 of the 29th May. M. Dupeyrat seems to admit that his real object is to raise difficulties showing that the maintenance of the unity of Morocco is an impracticable ideal which must give way, sooner or later, to a system founded on the complete independence of the three zones.

I have, &c.

MAURICE DE BUNSEN.

Enclosure 1 in No. 134.

Memorandum by Mr. White.

(Very Confidential.)

AT the meeting held yesterday afternoon M. Dupeyrat submitted a draft article he had prepared providing that whenever an appointment was to be made and it was decided to what nationality the post was to be assigned, the Government of the country in question should be informed through the Resident-General at Rabat, as the Sultan's Minister for Foreign Affairs. Both M. Padilla and I at once strongly objected to this procedure, pointing out that it was for the representative of the country in question at Tangier to take the necessary steps.

M. Dupeyrat dropped the subject at the time, and did not include his proposal in the *procès-verbal*. In the evening he came to see me and told me that, if I objected to the proposal, he was prepared to abandon it in the case of appointments to posts for which the candidates were to be selected by the municipality by a "concours sur pièces," but that he would have to insist on it in the case of the appointment of judges and of police officers, where the selection would be made by the various Governments.

He proceeded to explain that, by the terms of the recent treaties which France had concluded with Germany, Morocco, and Spain respectively, the French Resident-General at Rabat and the French representatives in other countries were the only channel for diplomatic communications for all three zones, and that his Government were determined that this arrangement should be strictly adhered to. He stated that, as regards the Spanish zone, no diplomatic Powers had been conceded to the Spanish Government. The Spanish Resident-General could treat with the consular officers in their zone, and, if no settlement of the question was arrived at, locally, the various Governments could treat with the Spanish Government, but the foreign representatives at Tangier could not enter into diplomatic relations with the Spanish Resident-General either directly or through the Spanish representative at Tangier.

I observed that such an arrangement would be most inconvenient and that, whatever the French views might be, I did not see how they could, in practice, prevent the foreign representatives at Tangier discussing such questions with their Spanish colleague if they were both willing to do so.

M. Dupeyrat admitted that this procedure was cumbersome and inconvenient, but added that it was for that very reason that they insisted on its adoption. The Powers

had imposed on France the unity of Morocco, which was most inconvenient to her. France now desired that the division into three zones should be carried to its logical conclusion and that each zone should become politically independent, with custom-houses on the frontiers. His object was that the Powers should find the present position so intolerable that they would be eventually obliged to consent to the partition of Morocco between France and Spain, Tangier remaining international.

Our conversation was of a private and confidential nature and it is possible that M. Dupeyrat was merely expressing his own personal views, but as head of the Morocco Department, his opinion, I understand, carries considerable weight at the Quai d'Orsay.

I told him I thought the policy he advocated was most ill-advised and would probably give rise to much friction and endless difficulties. With regard to the special point under discussion, I stated that, whilst I admitted that in certain matters, such as the negotiation of treaties, the French Resident-General was the proper channel for communications with other Powers, the foreign representatives at Tangier were the natural channel for communications with their Governments in all ordinary matters arising at Tangier.

M. Dupeyrat pressed his point and argued that the Mixed Commission had admitted the principle at the 31st meeting, when it accepted his proposal regarding the appointment of judges, where it was stated that "cette désignation sera notifiée par les voies diplomatiques conformément aux traités en vigueur." I replied that there was no mention in his proposal of the Resident-General conveying to the foreign Powers the invitation to select the judges. I had understood his proposal to mean merely that the fact that the Sultan had duly appointed the judges selected was to be notified.

M. Dupeyrat pressed me to accept this view, but I informed him that I could not do so without special instructions. I, however, consented to refer the point to His Majesty's Secretary of State. This morning I received a private note from M. Dupeyrat enclosing a draft article he had prepared and repeating his arguments. A copy of this note and of the article in question is transmitted herewith. I also transmit copy of the draft article of the proposed firman to which M. Dupeyrat refers in support of his contention; it will be seen that it refers only to the negotiation of treaties.

H. E. W.

May 29, 1913.

Enclosure 2 in No. 134.

M. Dupeyrat to Mr. White.

Cher Ami,

Madrid, le 28 mai, 1913.

CI-JOINT mon projet d'article pour la désignation des magistrats.

Je crois, ainsi que j'ai essayé de vous l'expliquer, qu'il se justifie de lui-même. Il s'agit là, en effet, d'une démarche officielle de la municipalité auprès d'un Gouvernement étranger, par conséquent d'un acte diplomatique. Or, il est entendu déjà aux termes du futur article du firman qui porte provisoirement le numéro 5, que la Municipalité de Tanger ne peut pas négocier avec les Puissances que par l'entremise du Ministre des Affaires Étrangères du Sultan.

Puisque vous désirez consulter le Foreign Office avant que je présente mon texte en séance, je vous serais reconnaissant de le faire d'urgence et par télégramme.

Bien cordialement à vous,

DUPEYRAT.

P.S.—Il va de soi que la même procédure devra être applicable aux officiers des tabors.

D.

Enclosure 3 in No. 134.

Draft Article.

Recrutement des Magistrats.

CHAQUE Puissance désignera elle-même les magistrats du tribunal international à son choix. En conséquence, la municipalité notifiera la vacance à pourvoir au

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Gouvernement intéressé par la voie diplomatique, conformément à l'article 5 du présent firman.

La désignation faite par le Gouvernement intéressé sera portée par la même voie à la connaissance de la municipalité.

Enclosure 4 in No. 134.

Draft Article 5 of proposed Firman.

LA municipalité n'a pas le pouvoir de négocier et de conclure des traités avec les Puissances étrangères autrement que dans les conditions prévues au présent firman et par l'entremise de notre Ministre des Affaires Étrangères, conformément à l'article 5 du Traité franco-chérifien du 30 mars, 1912.

La municipalité est tenue de respecter les traités actuellement en vigueur entre nous et les Puissances. En cas de désaccord entre les stipulations desdits traités et les réglementations municipales, les stipulations des traités prévaudront.

Les clauses des traités qui établissent l'égalité entre toutes les Puissances en matière économique continueront, même après abrogation éventuelle desdits traités, à s'imposer à l'Administration municipale.

[25357]

No. 135.

Sir M. de Bunsen to Sir Edward Grey.—(Received June 2.)

(No. 22.)
(Telegraphic.)

Madrid, June 1, 1913.

FRENCH Embassy have sent in to-day an urgent note, stating that, in view of disquieting intelligence which they continue to receive concerning attitude of tribes near Tangier, they are requesting French Resident-General to send a cruiser to Tangier to prevent panic, and trust Spanish Government will themselves take all necessary precautions.

Minister for Foreign Affairs informs me that Spanish reports from Tangier do not bear out the information received by the French Government. Although there is some slight agitation around Tetuan, nothing that Spanish Government have heard leads them to think tranquillity of Tangier and its neighbourhood is menaced. Moreover, they have plenty of troops in readiness to act if necessary. As French Government are sending cruiser, Spanish Government will send one also. I have informed Mr. White, who is inclined to think that, in the absence of any real danger, presence of a British vessel is unnecessary, and would only confirm French suspicion that we are looking for an opportunity to land troops at Tangier.

(Repeated to Paris and Tangier.)

[25391]

No. 136.

Mr. Kennard to Sir Edward Grey.—(Received June 2.)

(No. 25.)
(Telegraphic.)

Tangier, June 2, 1913.

SIR M. DE BUNSEN'S telegram No. 22 of 1st June: Situation at Tangier.

My latest information does not confirm French fears regarding unrest in Tangier zone.

It is stated that at meeting of tribes on 30th May it was decided not to attack Tetuan at present, and merely to resist any Spanish aggression. There are no signs of disturbance in Tangier immediate neighbourhood.

French agent here, from the moment of his arrival some weeks ago, has expressed great nervousness regarding danger of outbreak (see my despatch No. 122). He states that there are more than 2,000 Rifians in the town, and that he has not much confidence in police. Latter perhaps not very reliable, but Rifians and native population quite quiet.

There are always French and Spanish ships of war here, and, apart from landing troops, I fail to see what can be done to prevent panic, which is non-existing at present, but which might arise if such apprehension be displayed.

Should there be outbreak of hostilities in the Spanish zone it would be as well that

Spanish authorities should be warned to take every precaution to prevent tribal incursions in Tangier zone, and not to provoke incidents which might cause retaliatory measures here, but I trust I should have time to warn you in case any real danger threatened the town.

I therefore consider the presence of British man-of-war at present unnecessary, though occasional visit would do no harm.

(Repeated to Madrid.)

[25391]

No. 137.

Sir Edward Grey to Sir F. Bertie.

(No. 215.)
(Telegraphic.)

Foreign Office, June 2, 1913.

TANGIER telegram No. 25 of 2nd June: Possible disturbances at Tangier.

You should inform French Minister for Foreign Affairs that our information does not show any cause for special anxiety, and you should deprecate any measures, such as those indicated in Madrid telegram No. 22 of 1st June, being taken, since they may give rise to panic, at present non-existent.

(Repeated to Tangier, No. 20; and Madrid, No. 21.)

[25372]

No. 138.

Sir Edward Grey to Sir M. de Bunsen.

(No. 22.)
(Telegraphic.) R.

Foreign Office, June 5, 1913.

TANGIER.

I approve generally terms of draft decree establishing international tribunal, subject to additions based on your despatch No. 92 and telegram No. 17.

Detailed despatch will reach you shortly.

[25978]

No. 139.

Mr. Kennard to Sir Edward Grey.—(Received June 7.)

(No. 160.)
Sir,

Tangier, May 31, 1913.

WITH reference to my despatch No. 157 of the 24th instant, I have the honour to report that there seems to be no change in the situation in the Spanish zone.

A large meeting of the tribes was held at Mulai Abdsalem, between Tetuan and Alcazar, last week, which was attended by representatives of the Riff, Jebala, and Angera. It is said that it was decided to postpone the attack on Tetuan, but not to allow any European to come outside certain limits. The British consular agent at Alcazar reports that, while the tribes in that neighbourhood are determined to oppose any Spanish advance into the hills, they will not attack Alcazar. My Spanish colleague confirms this information, and although he is of the opinion that there will undoubtedly be disturbances of some kind, he does not think that Tetuan and Alcazar are in any danger. I understand that he is having some trouble with the German Legation, owing to the fact that the latter claim that the khalifa of Kaïd Raisuli at Arzila has German protection, while Señor Roberts asserts that he had previously received Spanish protection. The attitude of Raisuli himself is still veiled in mystery.

The French Agent still displays a certain degree of nervousness with regard to the situation at Tangier. Señor Roberts tells me that M. de Valdrôme has spoken to him very seriously on the subject, pointing out that there are more than a thousand Rifians here at present, and that the French and Spanish police are not to be relied upon in case of trouble. While it is possible that much confidence cannot be placed in the police, there seems no reason to apprehend a serious disturbance here. Such Rifians as are in Tangier are finding good employment, and there are no signs of any unrest among the native population. Should hostilities take place in the immediate vicinity of the frontier of the Tangier zone, the Fahs might be exposed to tribal incursions; but if the Spanish authorities take the necessary precautions, it is difficult to see any cause for apprehension as to the security of Tangier itself.

The present movement seems to be entirely anti-Spanish in character, and has not as yet been in any way extended against Europeans in general.

I have, &c.

H. W. KENNARD.

[26030]

No. 140.

Sir M. de Bunsen to Sir Edward Grey.—(Received June 7.)

(No. 107.)

Sir,

Madrid, June 4, 1913.

THE annoyance felt by the Spanish Government at the action of the French Government in causing a ship-of-war to be sent by the Resident-General in Morocco to protect Tangier against what is regarded as an imaginary danger, was increased by the republication yesterday in the Madrid press of an article from the "Journal" of Paris, describing in alarming language the condition of unrest and disturbance said to exist in the neighbourhood of Tetuan.

I have already reported in my telegram No. 22 of the 1st June that the information received by the Spanish Government from its representatives in Morocco does not bear out these French apprehensions, which also appear exaggerated to His Majesty's Chargé d'Affaires at Tangier, as shown by the latter's telegram No. 25 to the Foreign Office of the 2nd June, kindly repeated to me.

The Spanish Government have since received a telegraphic report from their High Commissioner in Northern Morocco, which was read out yesterday afternoon by the Minister of State in the Senate, in reply to an enquiry by Señor Perez Caballero, lately Spanish Ambassador in Paris. General Alfau's telegram denies altogether the existence of a present situation of danger and insecurity in the region in question. Though isolated cases of robbery, and even murder, have occurred in the neighbourhood of Tetuan, the "Journal" is misinformed in stating that the tribesmen are swarming round the city with hostile intent; that they have raided the Spanish camp and carried off cattle; that the Spanish native troops are deserting, and that there is disagreement between the Spanish generals.

Señor Navarro Reverter said that he had been painfully surprised by the appearance in a newspaper of the standing of the "Journal" of statements calculated so entirely to mislead public opinion as regards the true state of affairs in the Spanish zone. He did not deny that the termination of the harvest might produce in that part of Morocco conflicts between the tribes, and even attacks on the Spanish forces similar to those which have not ceased to engage the attention of the French Army of Occupation further south. But in this case the Spanish Government would receive the earliest warning, and take such steps as the situation warranted. Meanwhile, he could only meet with an indignant denial the statements in question, which evidently formed part of a deliberate campaign against the efforts, so far not unsuccessful, of the Spanish Government to introduce into their zone a régime of law and order.

I have, &c.

MAURICE DE BUNSEN.

[26161]

No. 141.

Mr. Kennard to Sir Edward Grey.—(Received June 8.)

(No. 26.)

(Telegraphic.)

Tangier, June 8, 1913.

MY telegram No. 25 of 2nd June.

Spaniards working on road to Sharfelakab, some 8 miles from Tangier, have been attacked by tribesmen, and their mules have been stolen. While incident is insignificant, it has caused some uneasiness in the town, and I have urged French agent to cause the French and Russian urban police to hold thorough enquiry and to patrol the district more efficiently. The French agent and consul-general is informing the Spanish Chargé d'Affaires that French Government will hold Spanish Government responsible for any acts of aggression on frontiers of Spanish zone.

Two Spanish posts have been attacked near Arzila, one officer and soldier being killed. On arrival of reinforcements from Arzila tribesmen were repulsed with loss and the posts withdrawn.

(Repeated to Madrid.)

[26161]

No. 142.

Sir Edward Grey to Mr. Kennard.

(No. 21.)

(Telegraphic.)

Foreign Office, June 9, 1913.

YOUR telegram No. 26 of 8th June: Incidents in Spanish zone.

Spanish Government attribute Arzila disturbances, to which alone they attach importance, to machinations of Raisuli, and propose to proceed against him. They fear he may endeavour to seek refuge in Tangier district, and have asked whether we should object to their arranging with France that French police at Tangier should prevent his entry. Do you see any danger to such an arrangement leading to international complication or to undesirable reinforcement of French position at Tangier?

Repeat your answer to Madrid.

(Repeated to Madrid, No. 23.)

[26477]

No. 143.

Sir M. de Bunsen to Sir Edward Grey.—(Received June 10.)

(No. 109.)

Sir,

Madrid, June 7, 1913.

WITH reference to my despatch No. 95 of the 22nd ultimo, I have the honour to report that the German Ambassador gave me last night the following particulars concerning the attitude of the German Government in the matter of the proposed mining regulations for Morocco:—

In response to the German protest against the action taken by the French and Spanish Governments in substituting for the draft regulations jointly drawn up in the year 1910 by the Powers chiefly concerned a revised draft drawn up by the delegates of France and Spain only, the Spanish Government communicated about the beginning of May to the German Government a copy of the revised text, so that the German Government might be in a position to offer their observations upon it, in the event of their desiring to do so, before the actual promulgation of the proposed regulations.

Since then Prince Ratibor has received no instruction to communicate further on the subject with Señor Navarro Reverter. He has, however, repeatedly enquired whether the Spanish Government really intended to promulgate in their zone a set of regulations differing on one or two important points from those which had formed the subject of a convention between France, Spain, England, and Germany. Señor Navarro Reverter gave on each occasion an evasive reply to the effect that the matter was in the hands of the French Government who must be considered the best interpreters of the Franco-German Convention of November 1911, on which the two Governments rested their case. Yesterday, however, Prince Ratibor received a letter from Señor Navarro Reverter informing him that the French Government intended to promulgate the revised regulations in the French Morocco zone on the 25th June, and that he understood the German Ambassador in Paris had been duly apprised of this intention.

Prince Ratibor assumes, though the Minister of State's letter did not say so, that the same step will be taken simultaneously in the Spanish zone.

Meeting Señor Hontoria, Under-Secretary of State, yesterday evening at a party, the German Ambassador commented, rather severely, on the independent action apparently contemplated by Spain and France in this matter, and on their disregard of the German protest. Señor Hontoria replied that Spain knew very well what she was about, and that Germany had had plenty of time since the beginning of May to raise objections to the new text, if any such had occurred to her.

As at present instructed Prince Ratibor will renew his protest on the promulgation of the new regulations.

I have, &c.

MAURICE DE BUNSEN.

[1613]

[26534]

No. 144.

Mr. Kennard to Sir Edward Grey.—(Received June 10.)

(No. 27.)

(Telegraphic.)

Tangier, June 9, 1913.

YOUR telegram No. 21 of 9th June.

Raisuli is now at Zinats, an important strategical point about 2 miles outside south-east corner of Tangier zone. In order to proceed against him, strong Spanish force would have to be despatched from Arzila or Tetuan, and would possibly cause general rising amongst tribes. If they succeeded in reaching Zinats, Raisuli would probably enter international zone, and might be accompanied by a large force of refugee tribesmen.

French extra-urban police consists only of 350 men, in whom French agent and consul-general does not have much confidence. It would therefore be impossible for so small a force to prevent entry of Raisuli if accompanied by tribesmen.

From a political point of view I consider Spanish proposal objectionable, as it involves departure of international zone from an attitude of strict neutrality which it should maintain. From a military point of view it is to be deprecated, as we have not a sufficient force to prevent tribal incursion, which might lead to serious consequences for this zone. I fully realise the importance to the Spaniards of Zinats as a strategical point, and the necessity of taking measures against Raisuli, who has hitherto been clever enough to avoid openly joining rebel movement, but in view of the defenceless state of this zone I cannot recommend approval of the Spanish proposal.

The French Agent agrees with this view, and the Spanish Chargé d'Affaires fully appreciates the difficulty. While for the moment we foresee no immediate danger to the Tangier zone, we have agreed that the following precautions are necessary:—

1. Spanish Government should be warned to make every effort to prevent possibility of disturbances in this zone.
2. French and Spanish warships should be always at Tangier. Further Spanish cruiser is in readiness at Ceuta.
3. Contract of French and Spanish police, which expires in July, should be renewed for six months.
4. Force should be brought up to full strength. French police are fifty men below it.
5. It should be considered whether numbers of combined Franco-Spanish police, which now consists of some 600 men, should not be provisionally doubled. French Agent suggests strong admixture of Algerian tirailleurs to ensure loyalty, but I hesitate to recommend increase of present force, though it is undoubtedly too weak to deal with any tribal incursion on a large scale.

There are at present no signs of disturbance in this zone, but if Spaniards are about to assume offensive, as they presumably must, it is essential to be prepared as far as possible for complications on frontiers.

(Repeated to Madrid.)

[26631]

No. 145.

Mr. Kennard to Sir Edward Grey.—(Received June 10.)

(No. 28.)

(Telegraphic.)

Tangier, June 10, 1913.

MY immediately preceding telegram of 9th June.

It would almost seem as if the moment has come seriously to consider whether it would not be desirable immediately to undertake definite pacification of districts surrounding the international zone. To ensure that no harm befall latter, which is almost defenceless, there appear to be only three alternatives:—

1. To increase local police force to such strength that it can deal with any contingency. To do this, recruitments would be necessary to obtain native troops from French or Spanish zones. This seems undesirable from international point of view, and on account of the bad effect such a measure would have on the tribes.
2. To give Spain permission to send troops into this zone to exert pressure from direction of Tangier. This also seems to be objectionable owing to lack of confidence

in Spanish military capacity and danger of this district being identified with Spanish zone and incurring active hostility of tribes.

3. To give mandate to the three Powers to land international force to protect Tangier district, while Spain be urged to take every measure to pacify definitely its zone. This also is perhaps open to criticism, though it seems best alternative.

It may, however, seem preferable to face the problem now, before the establishment of international municipality, than to be compelled to deal with it later. If Spanish authorities cannot count upon co-operation of Tangier in preventing it becoming place of refuge for rebels, they cannot be expected to take adequate measures, such as occupation of Zinats, and would no doubt fall back into inactivity, which would leave this neighbourhood at the mercy of the tribes, and render it necessary to maintain large force of municipal police here, which would be financially impossible.

I have of course not mentioned these views to my French or Spanish colleagues, but I think it wise that the matter be given earnest consideration, as an eventuality in case no improvement in the situation in the Spanish zone be shown.

Despatch follows.

(Repeated to Madrid.)

[26631]

No. 146.

Sir Edward Grey to Mr. Kennard.

(No. 22.)

(Telegraphic.)

Foreign Office, June 10, 1913.

YOUR telegrams Nos. 27 and 28 of 9th and 10th June.

Spanish Ambassador was informed to-day that advantage of forcibly preventing Raisuli from entering Tangier was by no means clear. At Tangier he could probably be more easily controlled than outside. He should, of course, not be allowed to enter with large armed retinue which could create disturbances. On former similar occasion no difficulty was experienced in disarming his followers on passing into Tangier. Existing French and Spanish police, especially if brought up to full strength, ought to be able to effect this now, or otherwise to guard security of district.

It was the clear duty of Spanish authorities to do everything in their power to keep order in their zone, but it seemed undesirable to invite France to take isolated action, which might, in case of failure, afford justification for French military reinforcements being sent to Tangier. Should disturbances make it necessary to introduce outside forces in support of Tangier police, England would probably feel compelled to send a man-of-war, as well as France and Spain, and to authorise landing of naval contingent.

(Repeated to Madrid, No. 24; figures to Paris.)

[26950]

No. 147.

Sir Edward Grey to Sir F. Bertie.

(No. 365.)

Sir,

Foreign Office, June 10, 1913.

M. CAMBON having asked me yesterday about a rumour that we were sending troops from Gibraltar to Tangier, I said to him to-day that no such step was in contemplation. If there were trouble at Tangier which made it necessary for any force to be disembarked, I supposed that France and Spain would send ships, and we also would send a ship. But I did not think that there was need to contemplate that at present.

M. Cambon said that the natural thing in such circumstances would be for us to send a ship, but not troops. He thought that the talk of disturbances in the region of Tangier had been very much exaggerated.

I am, &c.

E. GREY.

[26996]

No. 148.

Sir M. de Bunsen to Sir Edward Grey.—(Received June 13.)

(No. 113. Confidential.)

Sir,

Madrid, June 9, 1913.

WITH reference to my despatch No. 107 of the 2nd instant, I have the honour to state that the recent incidents near Tangier and Arzila, as reported in Mr. Kennard's telegram No. 26 of yesterday, as well as similar manifestations of tribal unrest at Tetuan, are receiving much attention in the Spanish press. The Government is being urged to spare no effort in sending immediately any necessary reinforcements, especially in view of the fact that a considerable number of time-expired troops are now returning to their homes from the Spanish garrisons in Northern Morocco. The question is also being asked in some quarters whether the statement made by the Minister of State in the Senate on the 3rd instant, and reported in my despatch No. 107 of the following day, was not founded on rather too optimistic an estimate of the state of affairs in the international zone and its immediate neighbourhood.

I questioned Señor Navarro Reverter on the latter point yesterday, and was informed by him that, although the tribes were undoubtedly in a state of a good deal of effervescence around Tetuan, he was in no doubt as to the capacity of the Spanish troops in that region to deal with any movement that may occur. The French, he said, were over-anxious, and they were also moved by a desire to apply their theory that the maintenance of order at Tangier was the special concern of the Sultan and his advisers, and therefore of the French. Hence their hasty decision, which, by the way, they had not carried into effect, to instruct General Lyautey to send a cruiser to Tangier.

Señor Navarro Reverter also told me that the agents of the Mannesmann Brothers were actively engaged everywhere in stirring up the tribes against the Spaniards in Morocco. He said he had the clearest evidence of this.

The French Ambassador spoke to me this morning on these questions. He thought the uneasiness felt at Paris concerning the condition of the Tangier zone had originated in a report from the French officer in command of the extra-urban police, with whom it was a fixed idea that England would take the first opportunity to pour troops into Tangier from Gibraltar. M. Geoffray does not share this apprehension, and thinks there is no present cause for alarm in the Tangier district. I expressed surprise at anybody in Tangier being led to fear unnecessary interference on the side of Gibraltar. I had not heard of any British ship of war visiting Tangier for a long time past. We agreed that the suppression of disturbance in the Garb might safely be left to the Spaniards, and that, if at any future time it should appear that Spain was unable to guarantee Tangier against the danger of tribal incursions from the Spanish zone, it would be a matter of international interest to decide how that end could best be secured—whether by deputing a single Power to take the necessary steps on behalf of all concerned, or by providing for joint intervention on the part of two or more Powers. On these points, however, I am well aware that M. Geoffray holds views which are far from being shared by persons like M. Dupeyrat, chief of the Morocco Department of the French Ministry for Foreign Affairs, who would probably contend that the defence of Tangier must devolve upon the protecting Power.

Meanwhile the newspapers announce that additional troops are being despatched across the straits from Algeciras and other Spanish ports.

I have, &c.

MAURICE DE BUNSEN.

[27028]

No. 149.

*M. Cambon to Sir Edward Grey.—(Received June 13.)*Ambassade de France, Londres,
le 9 juin, 1913.

M. le Secrétaire d'État,

LE Ministère français des Affaires Étrangères a examiné avec le plus grand soin les observations énoncées dans la lettre de votre Excellence en date du 1^{er} avril dernier au sujet de la situation au Maroc des censeux et des associés agricoles, ou "mokhalets." Voici quel est sur ces deux questions l'avis de M. Pichon :—

Le droit pour les négociants non domiciliés au Maroc de conférer la protection de leurs Gouvernements respectifs à leurs représentants indigènes dans l'Empire chérifien ne repose pas sur une base juridique : il a toujours été discuté et le Gouvernement marocain ne le reconnaît pas.

D'ailleurs, il semble bien que les commerçants indigènes représentant au Maroc des maisons européennes n'y possédant pas de comptoir, se trouvent, à peu d'exceptions près, à Fez. Cette situation remonte à l'époque où le séjour de cette ville était pratiquement interdit aux Européens.

Aujourd'hui la situation s'est modifiée, et les Européens vivent à Fez en sécurité. Continuer à autoriser des indigènes à bénéficier de situations spéciales par le seul fait qu'ils représenteraient des maisons européennes ne répondrait plus à l'état de choses établi. Un pareil régime multiplierait inutilement le nombre des censeux déjà en voie de sensible accroissement. Le Gouvernement chérifien serait en effet amené à consacrer dans toutes les villes importantes de l'intérieur et au bénéfice de toutes les nations européennes un usage qui, dans la pratique, était jusqu'ici restreint à la seule place de Fez et dont bénéficiaient presque exclusivement des protégés anglais.

Dans ces conditions, les autorités marocaines sont décidées à ne pas demander la radiation des censeux britanniques inscrits dans les conditions ci-dessus avant le 1^{er} janvier, 1913, mais elles comptent se refuser dans l'avenir à augmenter leur nombre. Cette solution serait équitable et dans l'esprit de la Convention de Madrid et du règlement de 1863.

En ce qui concerne, d'autre part, les patentes d'associés agricoles, le Gouvernement français estime que l'interprétation des actes de 1863 et 1881 autorise les autorités chérifiennes à en refuser la délivrance à d'autres qu'à des personnes engagées dans l'agriculture. Il existe dans les actes précités un parallélisme évident entre les clauses relatives aux censeux et celles définissant la situation de "mokhalet." La première de ces institutions a pour objet de faciliter aux étrangers les transactions commerciales, et la seconde leur donne les moyens de sauvegarder leurs intérêts agricoles : elles se complètent l'une l'autre.

Le Gouvernement chérifien verrait, en outre, dans la délivrance des patentes d'associés agricoles à des commerçants un très sérieux risque de confusion entre les droits et privilèges des censeux et ceux des "mokhalets," confusion que les indigènes ont tendance à commettre.

Sa résolution d'appliquer très strictement les dispositions des actes de 1863 et de 1881 lui a été inspirée par les nombreux abus auxquels une interprétation trop large de ces accords a donné naissance. L'institution des "mokhalets" et celle des censeux avait eu pour but de fournir certaines garanties au commerce européen dans un pays qui lui était fermé. Aujourd'hui ces garanties sont devenues, ou risquent de devenir, un obstacle aux progrès économiques du pays. M. Pichon estime donc qu'il y a là une situation paradoxale à laquelle il est nécessaire de mettre fin.

Il m'a, cependant, chargé de faire savoir à votre Excellence que le Gouvernement français, bien que très fermement attaché aux principes exposés plus haut, est tout prêt à envoyer à Tanger les instructions nécessaires pour que les listes anglaises de protection soient revisées dans l'esprit le plus conciliant.

Veuillez, &c.

PAUL CAMBON.

[27270]

No. 150.

Note communicated by Herr von Kühlmann, June 13, 1913.

(Translation.)

THE Imperial German Government have submitted to a provisional examination the drafts of a new Moorish mining law, communicated to them by the French and Spanish Governments, and they have come to the following conclusions :—

1. Both drafts are open to objection on the score of Germany's treaty rights in Morocco. On the one hand, they are contrary to the agreement concluded at Paris on the 7th June, 1910, between Germany, France, Spain, and Great Britain, respecting the regulation of mining matters in Morocco—an agreement which, in the opinion of the German Government, is still binding on the contracting parties; the two protecting Powers are therefore not in a position to undertake, without the assent of the other two Powers, modifications of the treaty provisions then agreed upon.

[1613]

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On the other hand, the stipulations contained in the new drafts cannot be reconciled with the rights accorded to Germany in the Morocco Agreement of the 4th November, 1911; in particular, they encroach upon the principle of Germany's equality of economic rights in Morocco, and they moreover contain infringements of German consular jurisdiction.

2. Subject to the reserves on points of treaty right explained above, the German Government are ready, in pursuance of the verbal invitation of the French [Spanish] Ambassador, to consider with the French [Spanish] Government, in association with the Governments of the two other Powers interested, how far the two new drafts can be brought into accord with the Paris draft, regard being had to the altered political situation of Morocco; now, as formerly, the German Government consider the Paris draft as the basis for negotiations. Should the negotiations lead to no result, the only alternative would be to submit the difference of opinion to The Hague Tribunal, in accordance with the proposal of the French and Spanish Governments, and the German Government are ready at any time to agree to this course. In such an event they naturally assume that the present legal position will, pending the decision of the court, not be modified by a provisional enforcement of the two drafts.

[24883]

No. 151.

Sir Edward Grey to Viscount Kitchener.

My Lord,

Foreign Office, June 13, 1913.

I HAVE received your Lordship's despatch No. 54 of the 24th May respecting the claim of the Spanish agent and consul-general in Egypt to protect Moorish subjects from the Spanish zone of influence.

In reply I would refer your Lordship to the note addressed by me to the French Ambassador in London on the 21st May, copy of which was transmitted to you in my despatch No. 82 of the 22nd ultimo. That despatch will now have reached you, and I have only to add that your Lordship is right in assuming that my decision in regard to the similar French request applies equally to the present case.

I am, &c.

E. GREY.

[27159]

No. 152.

Mr. Kennard to Sir Edward Grey.—(Received June 14.)

(No. 162.)

Sir,

Tangier, June 7, 1913.

WITH reference to my despatch No. 160 of the 31st ultimo, I have the honour to report that on the receipt of a telegram from His Majesty's Ambassador at Madrid, stating that the French Embassy there had sent an urgent note to the Minister for Foreign Affairs, informing him that the French Resident-General is being requested to send a cruiser to Tangier to prevent a panic there, I immediately made enquiries as to the causes which may have contributed to such a step.

The French Agent, who had no knowledge of the action of the French Embassy at Madrid, agreed with me that there must be some misunderstanding, as there is always a French cruiser here. He had some time ago suggested to his Government that, when the cruiser stationed here went to Gibraltar to coal, or was suddenly summoned down the coast, it should be immediately replaced by some other vessel, in order that there might always be some ship here in case of trouble; but he could not understand the meaning of the present step. He then gave me his views on the situation in the Tangier zone. While he did not feel any anxiety as to the immediate future, one could not tell what effect an outbreak of violent hostilities in the neighbouring Spanish zone might have here. There were a large number of natives in the town who were in sympathy with the rebellious tribes, and a sudden attack might be made on the Mountain for instance, an outlying part of the town where there are numerous European villas. He, further, had not much confidence in the police, and pointed out the efforts which were being made by the Spanish authorities unduly to minimise the gravity of the situation. I told M. de Valdrôme that from such information as I had received I gathered that there was for the present no sign of unrest in Tangier, or the outlying districts, and that I thought that we should

have ample warning of any anti-Christian movement here. On the other hand, there was a large Jewish population, easily inclined to lose their heads, and the display of any unnecessary apprehension might lead to a panic amongst them, of which there were now no indications. M. de Valdrôme quite agreed with this aspect of the case, but repeated his pessimistic views as to the future danger to be encountered.

I then saw the Spanish Chargé d'Affaires, who expressed his indignation at the inexplicable attitude of our French colleague. Señor Lopez Roberts stated that he had no reason to believe that any fear need be felt for the security of Tangier, and that he had perfect confidence in the loyalty of the Spanish police. The news which was appearing in the French press regarding the situation at Tetuan was much exaggerated; the Spanish Government were, however, sending another cruiser here, though there are always Spanish warships in the bay.

I further spoke to Commandant Toulat, the able commander of the French extra-urban police, who informed me that all the reports he had received showed that there was no danger of disturbances here. He could rely on the loyalty and efficiency of the force under his command, and did not for the present, at any rate, apprehend any danger for Tangier.

The information which I have obtained from native quarters also confirms this opinion. It is said that the tribes in the Fahs are much afraid of the attitude of the rebellious factions, who have threatened to burn their crops if they do not send representatives to the tribal meetings. There is a certain amount of insecurity in the Fahs, and the native population there, when summoned to pay the *tertib*, have expressed their willingness to do so, but demand that adequate protection should be afforded by the Makhzen for their property and cattle. There is, however, no indication of an anti-European movement in the outlying districts of the international zone.

As regards the situation in the Spanish zone, it is true that the Spanish authorities are perhaps inclined to conceal the true state of affairs, which is no doubt much more serious than they have hitherto been prepared to admit, though the French press goes to the other extreme, and lends an importance to isolated cases of aggression, which they may not deserve.

The state of insecurity in the Tetuan district becomes daily more aggravated. Patrols are attacked, and Spaniards who are foolish enough to remain outside the town are murdered. It is even reported to-day that the town itself has been attacked, though I have, as yet, no confirmation of this rumour. The Spanish authorities have not shown much energy in attempting to punish the perpetrators of these outrages, but are now taking more efficient measures for the policing of the town.

Reports from the Arzila district also show that the tribes are now assuming the offensive. A Spanish post has been attacked, and is said to have suffered severe losses.

An interesting feature of the situation is the announcement that a new Makhzen has been established at Sheshawen, some 32 miles south of Tetuan. Thirty-nine tribes are said to have adhered to the new Government, and the Shereef Ould Sidi Mohammed Ould Sidi-el-Hassan, a descendant of the Shereefs of Mulai Abdesselam, of the Dynasty of Mulai Dris, has been chosen as its head. Sheshawen has been made the capital of the new Administration, which will have its own civil and military organisation.

It would be extremely foolish of the dissident tribes to cause any trouble in this zone, as they now draw their provisions from the Tangier market, and also sell their produce here, having boycotted Tetuan. It is therefore of great importance to them that this market should not be closed to them. They are said to have expressed their willingness not to make this zone a contraband centre for rifles and ammunition, of which they are very short. It remains to be seen how far they will maintain a sensible attitude, if hard pressed by the Spanish troops, or if they inflict a severe defeat on them. An unexpected raid might be made into this zone, but it seems doubtful if they would actually threaten the town. It would, however, be well that the Spanish authorities should be warned not to undertake operations calculated to drive the tribes on to or over the frontiers of this zone, or to provoke incidents which might cause retaliatory measures here, such as the seizure in Tangier of mountaineers who may come to this market.

I do not consider the presence of a British warship here is necessary for the protection of British lives and property, though, as I have stated in previous despatches, the occasional visit of a British vessel would indicate that we are equally interested in the welfare of Tangier with the French and Spaniards, and would be much appreciated by the British colony here.

I enclose herewith copy of a despatch which I have received from His Majesty's vice-consul at Tetuan communicating the latest news of the situation there.

I am sending a copy of this despatch to His Majesty's Ambassador at Madrid.

I have, &c.

H. W. KENNARD.

Enclosure in No. 152.

Vice-Consul Ewart to Mr. Kennard.

(No. 27.)

Sir,

Tetuan, June 6, 1913.

I HAVE the honour to report that since my despatch of the 4th instant no more cases of killing or wounding Spanish soldiers or civilians have occurred, but there are reports of various Moors being shot or shot at by patrols or sentries, and some anxiety is said to exist amongst the native population in Tetuan. The country people are afraid to come to market to-day. There is a report that on next Sunday week there will be 20,000 tribesmen at Beit Seyed, three hours from here, and that 1,000 tribesmen from Gharjarah are there already. A reinforcement of one battalion and artillery has arrived here from Ceuta, and the colonel of the Vittoria regiment of cavalry (six squadrons, a thousand sabres), is now here to confer with General Alfau and Brigadier-General Primo de Rivera, and the staff, as to some operations.

The trooper shot on patrol duty on the 3rd instant, and the two infantry soldiers shot while going for water at daybreak on the same date (referred to in my last despatch, and to which I have to add a third soldier seriously wounded on same duty), were buried, with a large attendance of officers, soldiers, and civilians, and patriotic speeches were made by General Primo de Rivera, and the Spanish consul. All the foreign vice-consuls attended.

I have, &c.

C. F. S. EWART.

[27160]

No. 153.

Mr. Kennard to Sir Edward Grey.—(Received June 14.)

(No. 163.)

Sir,

Tangier, June 8, 1913.

SINCE writing my despatch No. 162 of yesterday's date, I have received news that seven Spanish labourers engaged in working on the new road from Tangier to Sharf-el-Akab were attacked on the night before last at a point about 8 miles from here by tribesmen and were robbed of five horses and two mules. The men were not seriously injured, and the incident can in no way be considered serious. As, however, it has caused a certain amount of uneasiness in Tangier, I have urged the French Agent to cause the French extra-urban police to hold a thorough enquiry into the outrage and, if possible, to arrest the perpetrators. I have further suggested that the police should patrol the outlying districts of this zone in greater force and more frequently in order that the tribesmen should not be led to imagine that they can commit acts of aggression of this kind with impunity. M. de Valdrôme quite agrees with this suggestion, and is giving the commander of the police instructions accordingly.

He spoke to me very seriously about the situation in the Spanish zone, and stated that he had received instructions from his Government to inform the Spanish Chargé d'Affaires officially that they would hold the Spanish Government responsible for any acts of aggression which might occur on the frontiers of the Spanish zone as the result of the unrest now obtaining there. He pointed out with some truth that the Spanish authorities are at present taking no steps to prevent the possibility of incursions into this zone. It was essential that they should not conduct any operations in such a manner as to drive the tribes on to or over the frontier into the Tangier district, and it was advisable that they should immediately occupy points such as Zeenats with a view to preventing the rebels crossing the boundary. The French Government are further of the opinion that energetic measures must be taken to suppress the disturbances now occurring throughout the Spanish zone. Hitherto nothing has been done in this direction, and the Spanish forces have contented themselves with holding the four posts of Tetuan, Arzila, Alcazar, and Larache.

It must be remembered that the construction of the Tangier-Fez Railway is about to be commenced, and the French Government would require some guarantee for the security of the section which will pass through the Spanish zone. They fully realise the difficulty of the Spanish position, but, as M. de Valdrôme said, why did they ever demand an extensive territory in Northern Morocco if they are unable to hold it?

There is undoubtedly a great deal to be said for the contention of the French Government, and, as I have previously stated, I consider that it would be well to warn the Spanish Government that they must take the necessary action to avoid danger menacing the tranquillity of the Tangier district. It is stated that the German Government have made strong representations to Madrid regarding the insecurity of the mining districts in the Rif, and have demanded that adequate protection be afforded to German commercial interests in those regions; I have, however, no confirmation of this report.

To-day's news from the Spanish zone is in no way reassuring. The tribes have evidently assumed the offensive, more especially in the Arzila district, where two posts have been attacked. An officer and several Spanish soldiers are said to have been killed in one action, while in the other, reinforcements had to be sent from Arzila to repel the tribesmen, who retired with severe losses.

It seems necessary that the Spanish Government should realise that they must now face the problem of pacifying their zone with the same energy as has been shown by the French in the protectorate. The inaction of the Spanish garrisons so far has only led the tribesmen to think that they can treat the former with contempt and commit any outrages they please. I understand that reinforcements are daily arriving at Tetuan and Larache, and it is to be hoped that steps will be taken to seize certain strategic points and establish posts and blockhouses there.

While it is not within my province to draw attention to the effects which severe Spanish reverses may have on the internal political situation in Spain, I would point out that there is a general impression that the hesitation of the Spanish authorities in assuming the offensive is due to the fear of a disastrous campaign such as that of Melilla, which might not only shake the foundations of the present Government but also those of the throne.

The Spanish Government have, however, assumed the responsibility for a large district peopled by turbulent tribes, marching on the one hand with the international zone, which would be defenceless if threatened by tribal invasion, and on the other with the French zone, which has every right to demand that communication with the Tangier zone should be properly safeguarded, more especially in view of the approaching construction of the Tangier-Fez Railway. If Spain shows that she cannot enforce order in her zone, she exposes herself to the possibility of France pointing out that in that case she must undertake these duties herself.

I still consider that there is no danger for this town or district at present, but with a population easily inclined to panic, such as that of Tangier, it is essential that every precaution should be taken to avoid a situation involving the landing of international troops on the eve of the establishment of the new authority, whose prestige could not but be adversely affected thereby.

I am sending copy of this despatch to His Majesty's Ambassador at Madrid.

I have, &c.

H. W. KENNARD.

[27162]

No. 154.

Mr. Kennard to Sir Edward Grey.—(Received June 14.)

(No. 165.)

Sir,

Tangier, June 8, 1913.

I HAVE the honour to report that I hear on fairly reliable authority that General Lyautey is about to resign his position as Resident-General of the French protectorate on the grounds of ill-health. General Lyautey has lately been indisposed, and is said to be greatly overworked. On my enquiring of the French agent whether there was any truth in the rumour, he stated that as far as he knew the General had no intention of sending in his resignation at present. It is to be hoped that this is the case, as General Lyautey's record as Resident-General is particularly good, and it is to be regretted that all his subordinates do not show the same judgment and capacity.

[1613]

3 U

There have been reports for some time past that Sid Mohamed-el-Mokri is about to tender his resignation as Grand Vizier. I further hear that General Lyautey, who is on bad terms with the Vizier, is most anxious to get rid of him, but that the French Government are averse to such a step. El Mokri is at present in Tangier on his way to Europe, where he proposes to stay for two months. When I called on his Excellency, I found him in a most depressed frame of mind, and he stated that his was, indeed, a thankless task. I understand that he has been compelled to disgorge a considerable amount of the fortune which he succeeded in amassing during the reign of Mulai Hafid.

I have, &c.

H. W. KENNARD.

[27589]

No. 155.

Mr. Kennard to Sir Edward Grey.—(Received June 16.)

(No. 167.)

Sir,

Tangier, June 10, 1913.

WITH reference to my despatch No. 163 of the 8th instant, I would submit that the Spanish proposal to proceed against Raisuli and to arrange that the French extra-urban police should prevent his entry into this district illustrates, in a very marked degree, the difficult position in which the international zone is placed in relation to the Spanish zone at the present juncture. Raisuli is now at Zeenats, an important strategical point, some two miles outside the south-east corner of the Tangier zone, which was the subject of some discussion in the negotiations at Madrid last year (see Sir Maurice de Bunsen's despatch No. 113 of the 14th July, 1912). In order to proceed against Raisuli, a strong Spanish force, amounting to several thousand men, would presumably have to be sent from Arzila or Tetuan, or both, and would, no doubt, meet with severe opposition on the part of the turbulent Beni Mesower and Wad Ras tribes. A glance at the sketch map, enclosed herein,* will show that Zeenats is at the apex of a tripod formed by Arzila, Tangier, and Tetuan. Assuming that the Spanish forces were successful in driving the tribes before them and taking Zeenats, it is possible that Raisuli would cross the frontier, and the Spanish Government evidently seem to expect this. It is true that the tribes generally retire into the hills when defeated, but Raisuli, who hitherto has shown considerable cunning in not openly joining the rebel movement, may think it feasible to come into this zone with impunity owing to the lack of substantial proof that he has actually conspired against the Makhzen or Spanish authorities. Raisuli fully realises the weakness of Tangier, having terrorised it so completely six years ago and having lately resided here for some months. His prestige may be on the wane, but any attempt of the Spaniards to arrest him may at once bring him into favour again with the tribes and should he be compelled to take refuge here, he might, if molested, be supported by a large body of tribesmen. To prevent this contingency, as the Spanish Government suggest, we have only the French extra-urban police, some 350 strong, in whom the French agent has not much confidence, as the Spanish police, consisting of 250 men, must remain in the town to ensure order here. It is not to be expected that so small a force could successfully arrest Raisuli and his supporters or drive them back across the frontier, and in any case it would involve a departure from the attitude of strict neutrality which it is essential for this zone to maintain under the existing circumstances. At present the tribes realise the importance of maintaining friendly relations with Tangier as a market to sell and buy provisions. But should this zone give any assistance to the Spanish forces, they might show active enmity, more especially as Tangier has a special attraction for looting purposes and is easily thrown into a panic.

It is most unfortunate that we cannot recommend the course proposed by the Spanish Government, as it is essential that they should occupy Zeenats, which is the key to the strategical position in this part of their zone. My French colleague, who quite agrees with these views, has suggested that they made this proposal, realising that it was not feasible and hoping to find therein a pretext for relapsing into the inactivity they have shown hitherto. I trust that this is not the case, but my Spanish colleague, with whom I have discussed the matter, fully realises the difficulty.

* Not reproduced

After a discussion of the general question of maintaining the security of the Tangier district, M. de Valdrôme, Señor Caro, and I, agreed that the following precautions should be recommended to our Governments, in order to guard against any serious developments in the situation, even though not existent for the moment:—

1. The Spanish Government should be warned to take every measure to prevent any menace to the Tangier frontier.

2. The French and Spanish warships, which are always in the bay here, should never leave without being replaced by other vessels. I understand that a Spanish cruiser is being kept in readiness at Ceuta in case it should be required here.

3. The contracts of the French and Spanish police, which I understand from my French colleague expire in July, should be renewed for six months.

4. The two forces should be brought up to their effective strength. I hear that the commander of the French police has not been filling up vacancies in the ranks owing to the uncertainty of future arrangements as to the municipal police. I further suggested that every effort should be made to ensure good discipline and loyalty, and that, as the forces only have one machine-gun, others might be added to increase their defensive qualities.

5. M. de Valdrôme has proposed that we should consider the possibility of doubling the present number of the police, bringing the combined Franco-Spanish forces up from 600 to 1,200, and adding a number of Algerian "tirailleurs" to ensure the loyalty of the native rank and file. I did not express entire agreement with this proposal, and stated that it would of course have to be purely a provisional measure. As it would be impossible to increase the numbers by recruits and as the Spanish native forces consist chiefly of Rifians and local tribesmen, it would be necessary to obtain native troops from the French protectorate, which would give a large preponderance to France. I, therefore, hesitate to recommend the acceptance of this suggestion.

While examining the immediate precautions which seem necessary to improve the security of Tangier and its outlying district, it seems advisable to consider the problem of dealing effectually with the general unrest which now obtains throughout the country surrounding the international zone. If the Spanish authorities are going to undertake actively the complete pacification of their zone, it is difficult to see how the Tangier district can avoid being to a certain extent involved in the hostilities, and it seems essential that there should be an adequate force here to prevent this zone being made use of as a place of refuge or even being attacked by exasperated tribesmen from the Beni Mesower, Wad Ras, and Angera.

In order to guard against these possibilities there seem to be but three alternatives:—

1. To so increase the present police that they would be able to deal with any contingency of this nature. While unable to give even an approximate estimate, I should imagine some 3,000 or 4,000 men would be necessary for this purpose. As stated above, these men would probably have to be drawn from the French protectorate army and would still further increase the impression of French predominance here.

2. To permit Spain to send troops into this zone to exert pressure outwards along the frontier of this zone and to prevent any tribal incursions. The Melilla and other campaigns have not inspired much confidence in Spanish military methods, and the presence of Spanish troops at Tangier would bring us into open enmity with the tribes and might be made use of to strengthen unduly the Spanish position here.

3. To give a mandate to the three Powers primarily interested in the Tangier question to land an international force sufficiently large to guarantee the complete protection of this zone and to render it possible for the Spanish authorities to concentrate every effort on definitely pacifying their zone.

This last alternative, while open to objection, appears the best, as it would maintain the international character of the affairs of this zone, and would not give the impression locally that France and Spain will in future control the situation here.

While in suggesting these alternatives I am only submitting them for your consideration as an eventuality in case the situation in the Spanish zone does not improve, I am of the opinion that they should be examined carefully for the following reason:—

If the present state of insecurity is allowed to continue indefinitely and the

international régime be in the meantime established, it will be found necessary to maintain a large police force, which will doubtless be financially impossible with the slender resources which the municipality will at first enjoy. Further, the Spanish authorities may maintain a policy of inaction, holding merely Tetuan and Arzila and leaving all the tribes in the vicinity of the Tangier district in such a state of unrest that it will be finally found necessary to adopt measures which it would seem more politic to carry out now. The example of Melilla, where, after an occupation of three years, it is unsafe to venture any distance from the town is sufficient to lead one to think that, unless there be an adequate force on the western flank of the Spanish zone, and unless extreme pressure be then brought to bear at Madrid, a similar state of affairs may continue to exist here, which cannot be tolerated in view of the Spanish zone's geographical relationship to this zone and to the French protectorate.

I do not wish in any way to sound an alarmist note, and at present I do not think that this zone is exposed to any immediate danger. On the other hand the Spanish zone is in a state of effervescence and unless measures be taken to bring it home to the tribes that they cannot attack and terrorise Europeans with impunity there, it will be impossible to guarantee the complete security of this district, which seems essential for an authority which will have neither the financial resources nor the military forces to afford it adequate protection under the circumstances. It may be further as well to consider how far it may be politic to strengthen Spain's position in Northern Africa in view of its connection with the internal political situation in Spain and the possibility of serious complications with France, who will doubtless demand that some guarantee be afforded for the maintenance of communications between Tangier and the protectorate.

I have, of course, not mentioned these views to my French or Spanish colleagues and merely put them forward tentatively for consideration in connection with the future state of affairs in Northern Morocco.

I am sending copy of this despatch to His Majesty's Ambassador at Madrid.

I have, &c.

H. W. KENNARD.

[27460]

No. 156.

Sir M. de Bunsen to Sir Edward Grey.—(Received June 16.)

(No. 115.)

Sir,

Madrid, June 12, 1913.

THE hostile attitude of the tribes in portions of the Spanish zone is causing a good deal of anxiety in Madrid. It is felt that the renewal of hostilities in Morocco will be accepted by the Spanish people only as a dire necessity and without enthusiasm. Though, during the last seven years, successive Governments have all shown an equal determination to secure for this country the possession of a sphere of influence in Morocco, the call for the men and the money needed to make good the occupation of the Spanish zone is very unwillingly heard. You are aware that Señor Navarro Reverter, Minister of State, expressed to me early in the year his own feeling that the safest policy for Spain to pursue would be that of avoiding any unnecessary display of military force. Under this conviction he resisted as long as he could the pressure of the army, which clamoured for the occupation of Tetuan. But a capital was needed for the Spanish zone, Tetuan was occupied on the 19th February last, and an agitation has now broken out among the tribes which will undoubtedly compel the Spanish Government to extend a good deal further their line of outposts. It is not yet clear whether a native "harka" is actually on foot, but many isolated cases of murder and outrage have been reported from the neighbourhood of Tetuan; attacks in force have been made against the Spanish detachments scattered along the road from Alcazar to Arzila; a kind of Makhzen, or central authority, has been set up at Chechauen; and it is evident that a considerable region of the Jebala and Garb country is in a state of insurrection against Spain. To meet this disagreeable though not unexpected situation, troops have for some time been forwarded from Algéiras and other Spanish ports to strengthen the garrisons of Ceuta, Tetuan, Alcazar, Larache, and Arzila. Several native battalions under Spanish officers have also been despatched from Melilla by sea to the points most needing reinforcement. It was reported yesterday in Madrid that an onward movement had been begun from Tetuan on the preceding day. A strategical point called Lauzien, between Tetuan and the

Fondak, was occupied by a force under General Primo de Rivera. Fighting also took place at a bridge crossing the Wady Jemis on the way to Tangier.

Meanwhile the position round Melilla continues unaltered. Beyond the line of the Spanish outposts the Riff country remains entirely unsubdued. The Spanish gunboat "Concha" ran aground early on the morning of the 11th June at Point Bosicou, on the coast between Alhucemas and Velez de la Gomera. She was immediately attacked by the Moors on shore, and though vessels from Melilla, Tangier, and Cadiz were hurried off to the rescue, it was admitted yesterday in Madrid by the Minister of Marine that a large proportion of the crew had been killed, wounded, or captured. To-day it is reported that some 60 officers and men, many being wounded, were successfully rescued by the gunboat "Lauria." The "Concha" is a total loss.

I believe that an expedition to Alhucemas was on the point of being despatched with a view to subduing the Riff tribes to the west of the River Kert, when the disturbed condition of the country round Tetuan caused this plan to be abandoned in favour of the more immediate object of clearing the communications between Tetuan and Tangier. In concentrating their present efforts on the country marching with the Tangier zone, the Spanish Government are no doubt impelled by a sense of the necessity under which they lie of proving if they can to the world that they are able to guarantee the Tangier zone against the danger of hostile incursions of the tribes. I have already reported in my telegram No. 24 of the 11th instant the views of Señor Navarro Reverter on this point. His Excellency thinks that, in the unlikely event of the Tangier zone requiring for its defence more than the native police force which it now possesses, the preferable course would be for the Powers to depute Spain to defend militarily the extra-urban zone, while the town of Tangier itself would be protected either, as in the winter of 1906-7,* by the presence of French and Spanish warships with troops on board for use ashore in case of need, or, if it seemed better to give a more markedly international character to the said naval force, by adding one or more vessels belonging to a third interested Power.

Señor Navarro Reverter and Señor Hontoria, Under-Secretary of State, with whom I have also spoken on the subject, agreed in thinking that a landing party from war-vessels would not be a suitable force for holding the extra-urban zone. They are also apprehensive of disputes arising between forces belonging to different countries and operating over a small area. They therefore prefer the prospect of a Spanish military force operating alone in the extra-urban zone, if, indeed, any military force be needed there, and of Tangier itself being overawed by the presence of ships from which it would probably be unnecessary, as it was in 1904, to disembark troops.

It is true that Señor Navarro Reverter's personal views are of no great importance, as a Ministerial crisis is proceeding, the result of which is likely to be his retirement from the Government on the score of over-fatigue.

I have, &c.

MAURICE DE BUNSEN.

[27798]

No. 157.

Note communicated by M. Cambon, June 16, 1913.

LES représentants de la France, de la Grande-Bretagne et de l'Espagne à Tanger sont tombés d'accord pour recommander à leurs Gouvernements les mesures suivantes suggérées par Mr. Kennard en vue d'assurer la sécurité du territoire de Tanger :—

Les deux tabors actuels de police seraient immédiatement complétés à plein effectif, si non même à double effectif, ce qui ne peut être fait que si le mandat de la police expirant le 1^{er} juillet est renouvelé pour une période d'au moins six mois, afin de permettre des engagements de sous-officiers et de soldats.

En ce qui concerne plus spécialement le tabor français, Mr. Kennard serait partisan d'un fort encadrement par des Algériens et du maintien du chef actuel du tabor, le Commandant Toulat, dont la grande expérience est appréciée de tous les représentants étrangers à Tanger.

*Ambassade de France, Londres,
le 16 juin, 1913.*

[1613]

* See General Report, Spain, 1906, paragraph 50.

3 X

[27956]

No. 158.

Mr. Kennard to Sir Edward Grey.—(Received June 18.)(No. 31.)
(Telegraphic.)

Tangier, June 18, 1913.

YOUR telegram No. 22 of 10th June.

Spanish cruisers have this morning bombarded the coast between Tangier and Ceuta. Spanish Chargé d'Affaires does not know motive for this step, but wild rumours have caused some uneasiness here. While Spanish Government cannot be expected to disclose plan of campaign, it would be well that they should warn us when about to undertake operations in immediate vicinity of the frontier of this zone.

(Repeated to Madrid.)

[27798]

No. 159.

Sir Edward Grey to Mr. Kennard.(No. 24.)
(Telegraphic.)

Foreign Office, June 18, 1913.

FRENCH Government propose to us bringing two police tabors up to strength and to prolong existing organisation for six months. We shall agree to this, but French communication suggests also doubling the strength and bringing in strong Algerian element, and states that these suggestions emanate from you. This I gather from your telegram No. 27 of 9th June to be a misunderstanding. There are grave objections from British point of view to allowing further increase of French police, with all the direct and indirect consequences inseparable from it. Introduction of Algerian element appears particularly undesirable. I do not gather from your most recent reports that there is really any danger of disturbance in Tangier zone with which existing force, if brought up to strength, and prolonged for six months, could not deal, and I have already informed Spanish Government that in the unlikely event of police being unable to cope with a sudden emergency His Majesty's Government would prefer the landing of naval detachments.

I propose to reply to French communication in above sense if you see no objection.

French Ambassador has heard a report that you contemplated despatch of British troops to Tangier from Gibraltar. I have assured him that no such step is intended.

[28077]

No. 160.

Mr. Kennard to Sir Edward Grey.—(Received June 19.)(No. 32.)
(Telegraphic.)

Tangier, June 19, 1913.

YOUR telegram No. 24 of 18th June.

The suggestion that the police should be doubled emanated from the French Agent and Consul-General, and I agree that there are grave objections to such a step.

At present I see no grounds for apprehension as to security of Tangier zone, though the existing police force cannot enforce strict neutrality. Large numbers of natives have left this zone to join in fighting, and operations such as yesterday's bombardment of villages close to our frontier can only increase uneasiness here. Present police, if brought up to full strength with prolonged mandate, should be able to deal with any disturbance, unless complications arise through extension of hostilities right up to our frontiers.

The report that I contemplated landing British troops is of course without foundation.

[27956]

No. 161

Sir Edward Grey to Sir M. de Bunsen.

(No. 25.)

(Telegraphic.) R.

Foreign Office, June 19, 1913.

TANGIER telegram No. 31 of 18th June.

You should point out unofficially to Spanish Government that it would greatly strengthen hands of Tangier authorities if representatives of three Powers could be warned in general terms when military operations are contemplated near frontier of Tangier zone.

[28275]

No. 162.

Board of Trade to Foreign Office.—(Received June 20.)

Sir,

Board of Trade, June 20, 1913.

WITH reference to your letter of the 16th June and previous correspondence respecting the proposed new mining regulations for Morocco, I am directed by the Board of Trade to state that, provided that these regulations are applied impartially, they do not appear to this department to contain much to which serious objection need be raised. Moreover, there does not at present seem to be any great likelihood of British investors or prospectors interesting themselves actively in the mining possibilities of Morocco, and, in any event, no discrimination is made—in the express terms of the regulations, at least—against British subjects in favour of any other persons.

Sir H. Cunyngame—whom, in accordance with Sir E. Grey's suggestion, the Board have consulted on the subject—expresses the opinion that there is not much in the regulations to concern His Majesty's Government, except that the French appear to have too exclusively given jurisdiction to tribunals named by themselves, apparently without regard to the rights of foreigners (British, among others) to have recourse to the Consular Courts. He adds that, if the German Government contest the present draft with the same vigour with which they did that of 1910, they will certainly refuse to admit these and other changes.

Should Sir E. Grey desire, the Board would be prepared to furnish a more detailed statement of the principal points in regard to which, in their view and that of Sir H. Cunyngame, the regulations might advantageously be amended should opportunity offer. These points, however, being for the most part of relatively small importance from the point of view of British interests, it appears to the Board that there is no occasion for His Majesty's Government to associate themselves with the German protest—a course which they understand that Sir E. Grey would prefer to avoid if possible.

I am, &c.

GEO. J. STANLEY.

[28320]

No. 163.

Mr. Kennard to Sir Edward Grey.—(Received June 21.)

(No. 172.)

Sir,

Tangier, June 14, 1913.

WITH reference to my despatch No. 167 of the 10th instant, I have the honour to report that it is almost impossible at the present moment to obtain reliable information about the state of affairs in the Spanish zone. Communications with Tetuan, Arzila, and Alcazar are interrupted, though letters can be sent via Ceuta from the former town, and a courier has brought me a letter from the British consular agent at Alcazar. The telegraph line to Arzila is also cut, and the only details obtainable are those to be found in the French and Spanish local press, and those to be obtained from native sources, none of which are trustworthy. The Spanish Legation apparently receives no information, as all reports from the Resident-General at Tetuan go direct to Madrid.

It appears that on the 11th instant a Spanish column under General Primo de Rivera left Tetuan to occupy an important strategical point named Bou Sfecha, some 6 miles from the town on the Tangier and Zeenats road. On arriving at this point

the column was violently attacked by the tribesmen and suffered some losses, it being stated that some thirty men including some officers were killed and a large number wounded. It is reported that a post has been established at Bou Sfeeha, but on the Spanish forces retiring they were again attacked and were obliged to use their machine guns almost at the gates of Tetuan.

In the western sphere of operations Colonel Silvestre left Alcazar with a column on the 6th instant for Arzila and apparently met with no opposition, though there is believed to have been fighting near the latter town yesterday. The stranding of the Spanish gunboat "General Concha" near Alhucemas, and the subsequent attack on the vessel by Riffians resulting in the death of the commander and several sailors, and capture of eight others, though in no way connected with the present operations, has made a painful impression.

The attitude and movements of Raisuli are still wrapped in mystery. There was a rumour yesterday that he had left Zeenats for the mountains. If this were so, it would mean that he has definitely thrown in his lot with the rebel tribes. Hitherto all my information tended to indicate that he was "sitting on the fence" and was occupied in rebuilding his house at Zeenats which, it may be remembered, was captured and destroyed by Makhzen troops some years ago. One would have thought that Raisuli would have been too intelligent openly to join the tribal movement, as he has large properties at Arzila and elsewhere which would be exposed to confiscation, and he is not as young as he was in the days when he terrorised this district, and also enjoys bad health. When urged to attend the tribal meeting at Mulai Abdselem, he is said to have declined to do so. Though my Spanish colleague is unaware of any intrigues, in which Raisuli may be engaged, I presume that the Spanish Government must have definite proof that he is instigating the tribes in the Arzila district to rebellion or else they would not suggest taking measures against him.

Raisuli has not yet, as far as I am aware, been removed from the post as Kaïd of the Arzila district, nor does he enjoy any foreign protection. It would, therefore, be the duty of the native extra-urban police under French instructors, by the orders of the local Makhzen authorities, to disarm any large retinue, who might accompany him into this zone, in the event of his taking refuge here. It would not, however, surprise me if he quietly returned alone to Tangier, where his brother, who has been acting his Khalifa at Arzila, is now residing. If the Spanish Legation could in this event produce evidence that he has been conspiring against the authorities in the Spanish zone they could request the Makhzen authorities to arrest him and deport him to the Spanish zone to undergo trial there. Of course, if the rumour that he has retired to the mountains is true, he will no doubt stay there, and it will be difficult, if not impossible, for the Spanish authorities to apprehend him.

The situation in Tangier and the Fahs is still quite calm. The proposed application of the "tertib" has caused some agitation, but the local authorities have not adopted a tactful attitude in regard to the local representations, and further the composition of the "commission de recensement," as has been previously reported, is not such as to inspire any confidence. Villagers from this district are leaving to join the tribesmen who are attacking Tetuan, and there is no doubt a considerable traffic in arms and ammunition with the Spanish zone.

The view of the Spanish Government that Spain should be entrusted with the protection of the extra-urban portion of this zone, in the event of necessity, is, in my opinion, unacceptable. It seems essential that the town and the district assigned to it under the international régime should be considered as a whole, and that the Fahs should not be in any way identified with the unrest in the Spanish zone. I should further imagine that the French Government would never agree to such a proposal, to which there are such obvious objections.

The present police force is no doubt strong enough to ensure the security of the town and its immediate neighbourhood at the present moment. Whether it is capable of guaranteeing the strict neutrality of this zone along the entire length of its frontier, is another matter. It is certain that men, arms, and ammunition are crossing the frontier to assist the anti-Spanish cause. There have been no tribal incursions as yet from the other side, though the recent attack on the Spaniards working on the Sharf-el-Akas road was apparently made by tribesmen from the Wad Ras. The population of the Fahs have been threatened by the Beni Mesowar and other tribes, and isolated acts of aggression have taken place owing to the lack of police protection in the outlying parts of this zone. While nothing of a more serious nature has occurred so far, it is impossible to foretell what the results of an energetic offensive campaign, which the Spanish authorities should now undertake, might be. The

tribes in this region are not so courageous as in the Riff, but they require severe punishment before any order can be restored in the country surrounding this zone. If seriously defeated, they would probably retire into the mountains, but there is always the possibility of their crossing the frontier, if hard pressed or exasperated. The occupation of Zeenats for instance at only 2 miles distance from the frontier could hardly be effected without driving the tribes in this direction. It is to be hoped that these considerations will not influence the Spanish authorities in the work of pacification, which they should be urged to carry out as thoroughly as possible. If they fear the responsibility of complications on the frontier, the Spanish Government should consult the two other Governments primarily interested in the Tangier question, and in concert with them adopt such measures as will render it possible for them to concentrate all their energies on the complete pacification of their zone without fear of this town and district being involved in their operations.

I have, &c.

H. W. KENNARD.

[28344]

No. 164.

Sir M. de Bunsen to Sir Edward Grey.—(Received June 21.)

(No. 119.)

Sir,

Madrid, June 17, 1913.

WITH reference to my despatch No. 109 of the 7th instant, I have the honour to report that the French Ambassador has had the goodness to inform me of a correspondence which has passed between the French Government and the German Embassy in Paris on the subject of the proposed promulgation by France and Spain on the 25th of the present month of the new mining regulations for Morocco, as drawn up in concert by those two Powers.

I understand that in a note dated the 11th June Baron von Schoen stated the objections entertained by the German Government to the inauguration of the new regulations in a form unapproved by the other Governments which were associated with it in drawing up the Paris draft of the year 1910. The German Government held that the new draft was inadmissible so long as the Paris draft remained unrepealed; and that it contained provisions which infringed upon the economic rights of Germany in Morocco under her Treaty with France of November 1911, and also upon the jurisdiction of her consular courts. Germany was ready to submit these questions to The Hague Tribunal, but, in order to save time, she would accept a suggestion which had been put forward by the French Ambassador in Berlin, to the effect that they might be first discussed, and, if possible, disposed of by a conference of jurists. M. de Schoen suggested that M. Degnault might accordingly be instructed to discuss the matter at issue with Herr Kriege, the German jurist. It would have to be understood that the new regulations should not be promulgated until an agreement had been reached either by the proposed method, or, in case of need, by means of an arbitral decision at The Hague.

The French reply, dated the 13th June, reasserts the right claimed by France and Spain to make regulations for their respective zones in Morocco, unhampered by the provisions of the draft regulations of 1910; expresses the readiness of France to go to arbitration on that point, if necessary; and accepts, meanwhile, the proposal that M. Renault and Herr Kriege should confer together on the subject of the other points at issue. It adds, that the French Ambassador in Madrid will be instructed to invite the Spanish Government to send a third jurist to the conference, if it should desire to do so; that meanwhile the new regulations will be held back, at all events, till the result of the conference of jurists is known; and that the French Government would wish to know, before the conference begins, what are the precise grounds on which the objections mentioned in the German note of the 11th June are founded.

M. Geoffroy informs me that he spoke to the new Spanish Minister of State on the subject this morning. Señor Lopez Muñoz, who held to-day his first Diplomatic reception, was naturally unprepared with an immediate answer, as regards the suggested participation of a Spanish jurist in the proposed conference. He appeared, however, to concur generally with the French proposals, and I presume it may be safely assumed that the new regulations will not now be promulgated, as had been intended, on the 25th June.

I have, &c.

MAURICE DE BUNSEN.

[1613]

3 Y

[28504]

No. 165.

Sir M. de Bunsen to Sir Edward Grey.—(Received June 21.)

(No. 25.)

(Telegraphic.) R.

Madrid, June 21, 1913.

YOUR telegram No. 25 of 19th June.

Minister for Foreign Affairs agrees that it is desirable that representatives of three Powers at Tangier should be made aware of intended military operations near Tangier zone.

Spanish High Commissioner has been instructed accordingly.

(Sent to Tangier.)

[29035]

No. 166.

Sir Edward Grey to Mr. Kennard.

(No. 25.)

(Telegraphic.)

Foreign Office, June 21, 1913.

SPANISH Government ask us to support proposal which their legation is to make at Tangier that Tangier authorities should be held responsible for preventing natives in country district from crossing into Spanish zone to join forces operating against Spaniards there. His Excellency was told that before instructing you to give such support it was desirable to know exactly what action on the part of Tangier authorities would be necessary if this responsibility were laid upon them, and whether they would be in a position to act accordingly without practically involving the Tangier district itself in the war.

Please report, after consulting your Spanish and, if necessary, other colleagues, what the Spanish proposal really amounts to, and whether you consider that we could safely support it.

[28274]

No. 167.

Sir Edward Grey to Mr. Carnegie.

(No. 387. Confidential.)

Sir,

Foreign Office, June 21, 1913.

AS you are aware, a conference was held in Paris in 1910 at which a draft mining law for Morocco was prepared by delegates representing France, Germany, Great Britain, and Spain, the four Powers chiefly interested in the matter.

You will have learnt from the Morocco print sections that the French and Spanish Governments have, however, now drafted revised mining regulations to supersede those agreed to at the conference of 1910, and I understand that the new regulations are to be formally promulgated in the French and Spanish zones on the 25th instant.

The action of the two Governments has given rise to a protest on the part of the German Government on the ground that France, Germany, Great Britain, and Spain are bound, now as formerly, by the protocol signed on the 7th June, 1910, and that any amendments thereto can only be introduced with the consent of all four Powers.

While His Majesty's Government are disposed to think that the German Government are not entirely unjustified in taking exception to the course pursued by France and Spain, they would prefer to avoid, if possible, associating themselves with the German protest, and they have therefore confined themselves hitherto to an examination of the new regulations from the point of view of British interests.

I am, however, now informed that the two Governments have agreed to discuss the matter with Germany in Paris, and in these circumstances it will be neither right nor desirable that His Majesty's Government should remain completely outside the negotiations. I have therefore to request that you will inform the French Government that His Majesty's Government learn that the question is now to be discussed with Germany, and that they trust that they will be kept informed of the progress of these negotiations which may possibly alter or modify the regulations to the disadvantage of British subjects. You should add that His Majesty's Government have considered the regulations, but they cannot pronounce a definite opinion on them if they are to be still further modified as a result of the Franco-German discussion.

I transmit to you herewith, for your fuller information, a copy of the recent correspondence on the subject,* and request you to explain our attitude to the French Government in such manner as you may deem most judicious in the circumstances.

I am, &c.

E. GREY.

[29035]

No. 168.

Mr. Kennard to Sir Edward Grey.—(Received June 23.)

(No. 33.)

(Telegraphic.)

Tangier, June 22, 1913.

YOUR telegram No. 25 of 21st June.

I have consulted my Spanish and French colleagues, and we have agreed that only measures we can take are to request Basha to warn heads of the villages not to allow villagers to join fighting, and also to use such influence as we have amongst our protected persons to represent to native population folly of identifying themselves with rebel tribes in Spanish zone.

There is no doubt that large numbers have gone to Tetuan from this district, but we can only use moral persuasion, which may not be very effective. Any practical attempts to prevent natives crossing frontier might involve us in hostilities.

As to responsibility, we have agreed that it would be impossible to make this zone answerable for the isolated action of certain inhabitants of this district in joining rebel movement.

[28275]

No. 169.

Sir Edward Grey to Mr. Carnegie.

(No. 390.)

Sir,

Foreign Office, June 23, 1913.

SINCE addressing to you my despatch No. 387 of the 21st instant, I have learnt from the German Embassy in London that the discussion of the revised mining regulations for Morocco is to take place in Berlin, and will be conducted by a commission of three jurists, the German delegate being Herr Kriege.

It is also stated that the regulations will not be promulgated in the French and Spanish zones until the discussions with Germany have taken place.

In these circumstances His Majesty's Government feel that they can no longer content themselves with a mere request that they may be informed of the progress of the negotiations, and they must claim the right to participate in the discussion of the new regulations which are to take the place of those drafted by the four Powers in 1910.

I shall, therefore, be glad if you will acquaint the French Government with the desire of His Majesty's Government to be represented at the forthcoming discussions, and will request that they may be informed of the approximate date for the opening of the conference.

I am, &c.

E. GREY.

[28077]

No. 170.

Sir Edward Grey to M. Cambon.

Your Excellency,

Foreign Office, June 23, 1913.

YOUR Excellency was good enough to communicate to me on the 16th instant a memorandum stating that the British, French, and Spanish representatives at Tangier had agreed to recommend to their respective Governments certain measures suggested by His Majesty's Chargé d'Affaires at that place with a view to assure the safety of the town and district. These suggestions were to bring the two existing police tabors up to full strength, or even to double their strength; to prolong the existing organisation for another six months from the 1st July; to introduce a strong

* To Board of Trade, May 15; German Embassy, May 5; Nos. 120, 143, and 162.

Algerian element into the French tabor; and to extend the appointment of its commanding officer, Major Toulat.

I have communicated with His Majesty's Chargé d'Affaires in the matter, and I have now the honour to inform your Excellency that in the circumstances His Majesty's Government readily agree to the proposals to bring both tabors up to their full strength and to prolong the existing police force (including Major Toulat as commandant of the French tabor) for a further period of six months.

It does not appear from the most recent reports which His Majesty's Government have received from Tangier that there is any real danger of disturbances arising in the international zone with which the existing police force when brought up to strength and prolonged for six months would not be able to deal.

Moreover, in the improbable event of the police being unable to cope with any sudden emergency, His Majesty's Government consider that it would be preferable to land naval detachments from ships of the three Powers chiefly interested in Morocco rather than to engage extra police to relieve the situation.

In these circumstances His Majesty's Government would deprecate any such marked departure from the existing arrangements as would be involved in a doubling of the police force and the introduction of a large element of Algerians instead of the natives of the country. I would add that Mr. Kennard denies having himself suggested either of these particular measures which, however, he discussed with his French colleague at the latter's request.

I am, &c.
E. GREY.

[28275]

No. 171.

Foreign Office to Board of Trade.

Sir,

Foreign Office, June 23, 1913.

I AM directed by Secretary Sir E. Grey to acknowledge the receipt of your letter of the 20th instant, stating that there is, in the opinion of the Board of Trade, no serious objection, from the point of view of British interests, to the proposed new mining regulations for Morocco.

Sir E. Grey is, however, now informed that the French and Spanish Governments have agreed to discuss the matter with Germany before promulgating the revised regulations in their respective zones in Morocco, and he learns that the discussions are to take place in Berlin, and will be conducted by a commission of three jurists, the German delegate being Herr Kriege.

In view of the part which Great Britain took in the Paris Conference of 1910, Sir E. Grey considers that His Majesty's Government should, as a matter of principle, insist on their right to participate in the negotiations which are now about to take place, and it would be highly desirable if Sir H. Cunynghame, who was present at Paris in 1910, could attend the Berlin conference as the delegate of His Majesty's Government.

I am accordingly to request that you will move the Board of Trade to ascertain whether, if it were definitely decided to send a delegate to Berlin, the services of Sir H. Cunynghame would be available, and I am to state that it may reasonably be expected that the discussions would not be unduly protracted on the present occasion.

I am to add that Sir E. Grey would also be glad to receive the more detailed statement of the principal points in regard to which the regulations might be advantageously amended, offered in your letter under reply.

I am, &c.
EYRE A. CROWE.

[29027]

No. 172.

Sir M. de Bunsen to Sir Edward Grey. (Received June 24.)

(No. 26. Very Confidential.)
(Telegraphic.) R.

Madrid, June 24, 1913.

IN long conversation last night the Spanish Prime Minister confessed to me that he looked forward with great apprehension to the development of events in Morocco.

Spain, having got her zone, was now face to face with a holy war of the tribes. He feared that the rising would extend from the western to the eastern portion of the zone. Great national effort was necessary to maintain the hold of Spain over her new protectorate, but such effort was difficult to make in view of the indifference of the country as a whole, and of the disapprobation, and even hostility, of a portion of the population. He thought that little more could be done for the present than hold the position recently occupied near Tetuan. If Spain met with disaster in Morocco, or were compelled to withdraw from her zone, she would be disgraced in the eyes of the world, and the Throne would be in danger.

He had no fear for the security of Tangier, and expressed surprise that it should have been felt necessary to assemble British ships at Gibraltar in readiness to take action across the straits. I said that I was not aware of such action being contemplated, and I had myself supposed that the ships were on their way to take part in naval manoeuvres.

(Sent to Tangier.)

[29417]

No. 173.

Sir Edward Grey to Sir M. de Bunsen.

(No. 77.)

Sir,

Foreign Office, June 24, 1913.

THE Spanish Ambassador asked me to-day whether it was true, as had been reported in Spain, that we had come to a decision to leave the protection of British subjects in Tangier to France and Spain.

I said that we had certainly not come to any such decision. It had been reported to the French that we were going to send troops from Gibraltar to Tangier, and I had denied this, but had said that, if Spain and France found it necessary to send ships to Tangier, we should probably send a ship also. This was what we contemplated doing if the necessity arose.

The Ambassador said that this was what he had understood, and he had felt sure that the report about our leaving the protection of British subjects to France and Spain could not be true.

I am, &c.
E. GREY.

[29091]

No. 174.

Board of Trade to Foreign Office. (Received June 25.)

(Confidential.)

Sir,

Board of Trade, June 24, 1913.

WITH reference to previous correspondence respecting a proposed concession for the construction and exploitation of port works at Tangier, I am directed by the Board of Trade to state that, as a result of informal communications between the two Departments, the Board have approached Messrs. Topham, Jones, and Railton with regard to this matter, and are now in receipt of a reply from the firm, copy of which is enclosed herewith for Sir E. Grey's information.

In view of this reply and of the attitude taken up by Messrs. Jackson and Messrs. Pearson, the Board concur in what they understand to be Sir E. Grey's opinion that it is advisable for His Majesty's Government to acquiesce in the grant of the concession to a selected syndicate, such as that indicated in your letter of the 13th May.

I am to return herewith the two documents relating to the port of Tangier which were recently left at this Office.

I am, &c.
GEO. J. STANLEY.

[1613]

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[29172]

No. 175.

Mr. Carnegie to Sir Edward Grey.—(Received June 25.)

(No. 83.)

(Telegraphic.) R.

MOROCCO mining regulations.

Your despatch No. 390 of 23rd June.

French Government reply as follows:—

Paris, June 25, 1913.

"His Majesty's Government appear to have been misinformed in regard to nature of forthcoming conversations at Berlin. There is no question of negotiating as to right of France and Spain alone, and without the co-operation of other Powers, to legislate in mining matter in Morocco. French Government are so sure of their rights on this point that they have decided to submit their claim to International Tribunal of Hague should it be definitely contested. Sole object of Berlin conversations is to consider unofficially whether the draft mining regulations of 1913 infringe in any way the rights of Germany under the treaty of 4th November, 1911.

"In these circumstances the French Government earnestly hope that His Majesty's Government will not insist on being represented at conversations at Berlin, which are strictly limited to purpose above described. Results of these conversations will, moreover, be communicated to His Majesty's Government."

Copy by post to-night.

[29418]

No. 176.

Sir Edward Grey to Sir M. de Bunsen.

(No. 78.)

Sir,

Foreign Office, June 25, 1913.

THE Spanish Ambassador said that the German Government had stated that the arrangements about Tangier must be subject to the consent of Germany. He asked me whether we had received this communication from the German Government.

I replied that I did not remember any such communication having been received. I had quite recently seen that the Germans had made a communication about mining regulations in Morocco, but that was all I remembered at the moment.

The Ambassador was aware of the communication about mining regulations, and said that that was quite a separate matter.

I said that I understood that, when the arrangements about Tangier were completed, they would be communicated to Germany and the other Powers for observations.

The Ambassador agreed that this was so.

I am, &c.

E. GREY.

[28515]

No. 177.

Sir Edward Grey to Señor Merry del Val.

Your Excellency,

Foreign Office, June 25, 1913.

YOUR Excellency was good enough to express verbally on the 21st instant the hope of the Spanish Government that His Majesty's Chargé d'Affaires at Tangier might be instructed to support a proposal to the effect that the authorities in the international zone should be held responsible for preventing the Moors in the district surrounding the town from joining the Moorish bands which are operating against the Spanish forces in the Spanish zone.

I did not fail to communicate with His Majesty's Chargé d'Affaires in the matter, and I have now the honour to inform your Excellency that a telegram has been received from Mr. Kennard, reporting that he has consulted his French and Spanish colleagues, and that the three representatives are agreed that the only measures which it is practical for them to take are to request the Basha to warn the heads of villages not to permit villagers to join in the fighting, and also to use such influence as they have amongst the protected persons of the three Powers to represent to the native population the folly of identifying themselves with rebel tribes

in the Spanish zone. They do not, moreover, consider that the authorities of the Tangier zone could, in fairness, be made answerable for the isolated action of certain inhabitants of the district in joining the rebels, whilst the attempt to prevent them by the use of force from crossing the frontier could only have the effect of involving the international zone itself in the hostilities, which it is still hoped will not spread to Tangier and its immediate neighbourhood.

I have, &c.

E. GREY.

[29200]

No. 178.

Mr. Carnegie to Sir Edward Grey.—(Received June 26.)

(No. 341.)

Sir,

Paris, June 25, 1913.

I HAVE the honour to transmit to you herewith, with reference to my telegram No. 83 of to-day's date, copy of a note which I have received from the French Government in reply to the one which I addressed to them under the instructions conveyed to me by your despatch No. 390 of the 23rd instant, in regard to the desire of His Majesty's Government to participate in the impending negotiations at Berlin relative to the Morocco mining regulations.

I have, &c.

LANCELOT D. CARNEGIE.

Enclosure in No. 178.

M. Paléologue to Mr. Carnegie.

M. le Ministre,

Paris, le 24 juin, 1913.

VOUS avez bien voulu exposer à mon département, à la date de ce jour, que Sir Edward Grey avait appris qu'une revision du règlement minier marocain devait avoir lieu à Berlin; trois juristes se réuniraient à cet effet en commission, le délégué allemand étant M. Kriege; aucun règlement ne serait publié dans les zones française et espagnole jusqu'à ce que les conversations avec l'Allemagne aient eu lieu. Dans ces conditions, le Gouvernement britannique ne pouvait se contenter d'être tenu au courant des négociations et réclamait le droit de participer à la discussion du nouveau règlement destiné à remplacer celui qui avait été élaboré par les quatre Puissances en 1910. Vous manifestiez, en conséquence, le désir du Gouvernement britannique de participer aux discussions qui allaient être entamées, et vous demandiez à être informé de la date approximative de l'ouverture de la conférence.

J'ai l'honneur de porter à votre connaissance que le Gouvernement britannique semble avoir été inexactement renseigné sur la nature de la conversation qui doit avoir lieu incessamment à Berlin entre M. Kriege d'une part, et MM. Renault et Santa-Maria de Paredes, respectivement chargé de traduire le point de vue de la France et de l'Espagne. Il ne s'agit là, en aucune façon, de négociations relatives au droit de la France et de l'Espagne de légiférer seules en matière minière au Maroc sans le concours d'autres Puissances. Le Gouvernement de la république est, en effet, sur ce point si sûr de son droit qu'il est décidé à soumettre sa prétention au jugement du tribunal international de La Haye, si elle est définitivement contestée. Les conversations de Berlin doivent avoir uniquement pour objet d'examiner officiellement si le projet de règlement minier de 1913 porte en quelque façon atteinte aux droits qui ont été reconnus à l'Allemagne par le traité du 4 novembre, 1911.

Dans ces conditions, le Gouvernement de la république a le ferme espoir que le Gouvernement de Sa Majesté britannique n'insistera pas pour se faire représenter aux conversations de Berlin, strictement limitées à l'objet qui vient d'être exposé. Le résultat de ces conversations sera, d'ailleurs, porté à la connaissance du Gouvernement britannique.

Agréez, &c.

PALÉOLOGUE.

[29559]

No. 179.

Sir Edward Grey to Mr. Carnegie.

(No. 407.)

Sir,

Foreign Office, June 26, 1913.

M. PICHON, in the course of the conversation that Sir Arthur Nicolson and I had with him and M. Cambon this morning, explained that the Germans were playing for delay about the mining regulations in Morocco. The regulations drawn up in 1910, which had been nothing but a project, had been entirely superseded by what had taken place since. There was a great deal of speculation in mining ventures in Morocco, and it was necessary for France to promulgate her regulations. Germany disputed her right to do so, and, if need be, France would appeal to The Hague on this point; but she wished the question to be first discussed *officieusement* between Herr von Kriege and M. Renault in Paris, and she was anxious that we should not send a representative and so turn the matter into a formal discussion *de novo* of the regulations. The French Embassy here would keep us informed of all that went on. M. Pichon was under the impression that Germany had asked us to send a representative.

Sir Arthur Nicolson and I said that we had had a communication from the German Government, but it had been only *à titre de renseignements*, and they had not asked us to take any step in the matter.

I promised to look into the question, about which I said that I must consult Sir Eyre Crowe, who knew it thoroughly.

I am, &c.

E. GREY.

[29560]

No. 180.

Sir Edward Grey to Mr. Carnegie.

(No. 408.)

Sir,

Foreign Office, June 26, 1913.

M. PICHON, in the course of the conversation that Sir Arthur Nicolson and I had with him and M. Cambon this morning, asked me to agree to recognise the French Protectorate over Morocco as soon as the arrangements about the internationalisation of Tangier had been concluded. He understood that this was practically the case already. Germany was bound to recognise the French Protectorate, and it would be very embarrassing if we, by refusing, enabled Germany to make difficulties.

I observed that we could not part with our extra-territorial jurisdiction in Morocco till we could make progress with the modification of the Capitulations in Egypt.

M. Cambon pointed out that the recognition of the French Protectorate was not bound up with the question of jurisdiction, that could be dealt with separately afterwards. This had been so in the case of Tunis.

I promised to look into the matter.

I am, &c.

E. GREY.

[29364]

No. 181.

Sir M. de Bunsen to Sir Edward Grey.—(Received June 27.)

(No. 122.)

Sir,

Madrid, June 23, 1913.

IT has seemed hardly necessary to report in detail the particulars published in the press of the military operations in which Spain has unfortunately become again involved in Northern Morocco. In the Tetuan region they have accomplished so far very little beyond the occupation in force of Mount Lauzien, an eminence commanding the road leading from Tetuan to Tangier at a point less than 10 kilom. from the former place. It has proved impossible as yet to push on to Zinat, the supposed headquarter of El Raisuli, or even to the Fondak. To keep the encampment at Lauzien supplied, or to protect it against the assaults of the Angera tribes, daily convoys, covered by considerable bodies of Spanish troops, pass backwards and

forwards daily between Tetuan and the Spanish front. On the 11th, 15th, and 19th June serious engagements took place. The villages within a 10-mile radius of Tetuan, which have contributed to the formation of the hostile "harka," have been bombarded, and some destroyed by fire. Similar chastisement has been inflicted by the "Reina Regente" and other Spanish warships within range of their guns between the limits of the Tangier zone and Ceuta. The coast of the Gomara region to the east of Tetuan is also being bombarded. In the attacks on hostile villages near Tetuan, the native troops from Melilla are said to have afforded repeated proofs of their ferocity as well as of their attachment to their new masters. The published reports of General Alfau, the Spanish high commissioner and commander-in-chief at Tetuan, claim that some impression has already been made by these tactics on the mind of the natives, and that the latter are beginning to realise that Spain is capable of reducing them to obedience. However this may be, the Spanish advance has evidently met with an unexpected check. Whether it may yet be possible, in the summer months, to clear the Tangier road and effect a communication between Tetuan and Arzila, is a point still open to serious doubt.

Meanwhile, Colonel Silvestre, whose appointment as lieutenant-general and commander-in-chief of the Alcazar-Arzila district appeared in yesterday's Gazette, has also been engaged in several sharp encounters with the tribes, whose simultaneous uprising in the two fields of conflict is ascribed to the machinations of El Raisuli. The small military posts along the road from Alcazar to Arzila having been raided by the enemy, a succession of punitive expeditions, culminating in something like a battle at Sok-el-arba, are now said to have restored a semblance of tranquillity in that neighbourhood.

In the Melilla Alhucemas country no attempt has been made to punish the recent murderous attack of the tribesmen on the stranded Spanish gunboat "Concha."

In Spain the war is far from popular. Meetings have been held in Barcelona to inveigh against the Morocco adventure in the strain of violent protest of 1909. The Government, however, have been careful this time to avoid the fatal error of drafting troops from Catalonia, and all attempts to create disturbance have so far been nipped in the bud. The Cortes being prematurely closed, criticism of the Government finds vent in the columns of the press. Señor Gabriel Maura, son of the Conservative leader, had announced an interpellation in the Chamber of Deputies. He has now had his say in a Conservative newspaper. In a series of articles he has tried to show that his party are free from all responsibility in the present complications; that the Melilla war of 1909 was merely intended to gain a little breathing space round Melilla; that the subsequent advance of the Spanish outposts to the banks of the River Kert and towards the interior was a provocative act, which the Conservatives would never have sanctioned; that the renewed hostilities in 1911 were the natural consequence of these mistaken tactics; that Spain, having at last secured her zone, should have withdrawn her troops behind the walls of Melilla and Ceuta; and that, if she was now in deadly conflict with the tribes, the immediate cause had been the highly imprudent occupation of Tetuan.

I do not think that any Spanish Government could have taken in the past the line now advocated by Señor Maura and remained in office for a week. Least of all could a Conservative Government have adopted a policy of retreat. On the other hand, something may no doubt be said to support the contention that the advance on Tetuan was unwise. It will be remembered that Señor Navarro Reverter was opposed to the move, which was made at the instigation of the military authorities. Though the occupation itself was bloodless, it was soon followed by a series of attacks on life and property beyond the walls of the town. General Alfau felt compelled to take the offensive, and is now confronted with a general rising of the tribes which is beginning to cause serious uneasiness in the minds of the Spanish Government.

Unfortunately the situation at home is not favourable to a vigorous direction of the campaign. The Conservatives stand aloof. The split between the Government and the friends of Señor Montero Rios and the Marquis of Alhucemas is widening. Count Romanones, if he could bring himself to re-assemble the Cortes, might easily find himself in a minority. Whereas he has hitherto relied on a party following in the Chamber of Deputies of 209 Liberals as against an opposition minority of only 176 all told, he is now likely to be left by the defection of the dissident Liberals with a group of only 145, as against an opposition, if they all voted together, of 240, including 110 Conservatives, 64 dissident Liberals, and 36 Republicans, besides Carlists, Regionalists, and other minor groups. Yet no opposition statesman has shown so far the least desire to take his place at the head of the Government.

[1613]

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Strong pressure, however, is being brought to bear on him to re-open the Cortes in order that the country may be made aware by public debate of the full extent of the difficult problem which it is now called upon to face.

I have, &c.

MAURICE DE BUNSEN.

[28514]

No. 182.

Sir M. de Bunsen to Sir Edward Grey.—(Received June 28.)

(No. 123. Very Confidential.)

Sir,

Madrid, June 24, 1913.

COUNT ROMANONES took me aside at a party yesterday evening at his own house and spoke to me at some length and with great earnestness concerning the political outlook in Spain as affected chiefly by the situation in Morocco. He said he had closed the Cortes because party conditions at the present time afforded no prospect of pending measures being passed, or of the Morocco question being usefully discussed. A very serious emergency had arisen in Morocco. Spain having at last secured the zone which had been the object of her dreams ever since the signature of the abortive Franco-Spanish Convention of 1902, she found herself confronted with tribal risings similar to those which France had had to face for so many years in Algeria and was now facing in the Southern Morocco zone. He was afraid they amounted to a holy war against Spanish domination, and that they were spreading from the Tetuan region to the Riff. To deal with this formidable movement, Spain had only a comparatively small force at her disposal on the spot. He did not give its strength, but it is generally believed that 10,000 men at Ceuta and Tetuan, 5,000 at Alcazar and Arzila, and 35,000 about Melilla represented roughly the available Spanish troops in Northern Morocco, when the disturbances began. France in her zone had about 75,000. General Alfau had been compelled to take the offensive from Tetuan. To sit still there under the insults received would have been to invite a general attack of the tribes on Tetuan, which would have found itself in a position similar to that of Fez when besieged by the surrounding tribes in 1912. An advance was necessary, but unfortunately General Alfau did not dispose of a force sufficient to enable him to clear the road to Tangier. He was at bay, in a strong position near Tetuan, hitting back when he could at the tribesmen, and inflicting such punishment as he was able by sea and land. Strong reinforcements were urgently needed; Count Romanones spoke of 10,000 men. But public opinion had failed to grasp the situation. There was no disposition to make the necessary effort. Disturbances had only with difficulty been avoided in Barcelona. What might happen if large bodies of troops were to be despatched to the front was more than he could say. Yet nothing less could suffice to meet and overcome the growing danger. Spain could not lightly abandon the task she had undertaken. But the task was perhaps beyond her strength. If so, she would lose all her prestige, and it was doubtful if the monarchy could survive her humiliation. France of course would step in to fill the gap left by Spain, and it was easy to see that, with all their professions of friendship, the French colonials were already rejoicing at the prospective failure of Spain. Count Romanones confessed that he was profoundly discouraged. Since the loss of the colonies the country had had to face no such crisis as the present one. Yet this was the moment chosen by an important section of his party to break away from him, though well knowing that they were incapable of forming a Government themselves. As matters stood, Conservatives and dissident Liberals would combine, if he opened the Cortes, to turn him out of office. They would throw all the blame on him, though he had himself done nothing to create the situation bequeathed by Señor Canalejas. Having overcome him, they would quarrel among themselves, and the King would be placed in a most awkward position. In that case, he thought there was nothing for it but to allow the Conservatives to take office on their own terms, including, of course, a dissolution and the election of a Chamber to suit them. This might easily happen before the summer was out. But the country had sworn implacable enmity against Señor Maura, and Count Romanones thought there could be no peace with Señor Maura as Prime Minister. If Señor Maura could only persuade himself to retire into private life, the resumption of power by his party would become much easier. But even so, the Conservatives would have a very difficult time before them. Once in office, any other Government could only do what his were doing. The task might well prove more formidable to the Conservatives than to the Liberals.

The latter at least had a friendly press and a compliant Republican Opposition, prepared even to join forces with them, though, no doubt, on terms regarding limitation of responsibilities in Morocco which it would be impossible to accept without first making at least one supreme effort to defeat the Moors.

I asked Count Romanones how the finances of Spain would stand the strain. He said but for Morocco Spain had done very well. Her revenue was now 8,000,000l. a year in excess of what it was seven or eight years ago. But war expenditure had more than swallowed up the surplus yield of the taxes, and only a large loan could restore the balance.

His Excellency referred to rumours originating, he had heard, in the French Agency at Tangier that British warships were gathering at Gibraltar in readiness to swoop on Tangier at a few hours' notice. It is true that for some days past the Madrid papers have echoed this story. I said I had no knowledge of any such intention. If Tangier were threatened at any time, it might well be that a joint naval operation would be needed to protect the international zone. So far my information had been that there was no present danger in that quarter; if there had been a movement of ships to Gibraltar I could only suggest that it might be in connection with the approaching naval manœuvres on the British coast.

The Prime Minister was in a most despondent mood. He said he had lost all his illusions, and that the only healthy element in Spanish politics was the person of the King, which stood out higher every year above the meanness of party conflict.

While agreeing that the situation was serious, I did not conceal my personal feeling that it would be better to open the Cortes and "face the music" than to allow it to be supposed, however mistakenly and unjustly, that he was holding on to office against the will of the people. If he was overthrown, it would be the duty of his assailant to step into his place. He said nothing could be more welcome to him than retirement from office, but before shutting the Cortes he must be able to convince himself that a situation more dangerous and chaotic than the present one would not be the probable result of his advising the King to take this step.

I have, &c.

MAURICE DE BUNSEN.

[29515]

No. 183.

Sir M. de Bunsen to Sir Edward Grey.—(Received June 28.)

(No. 124.)

Sir,

Madrid, June 25, 1913.

ANOTHER sanguinary and apparently fruitless engagement is reported this morning from the neighbourhood of Tetuan. The acknowledged Spanish losses are 3 officers and 30 men killed, 5 officers (one a colonel) and 48 men wounded. The hostile harka is said to have been dispersed so effectively that the Spanish troops were unmolested in falling back on their positions, but no advance is claimed to have been made.

At a Cabinet Council held yesterday under the presidency of the King, it was decided to send immediately 8,000 troops to the front, namely, 6,000 to Tetuan and 2,000 to Alcazar. I found the Prime Minister a degree less depressed than when he freely confessed to me his doubts regarding the future on the evening before. The Government were determined, he told me, to face the emergency boldly. They knew very well that the despatch of so large a force would be unpopular and might even lead to local disturbances, but there was no alternative except that of complete surrender. Of course, even 8,000 men might prove to be only a fraction of what would ultimately be required to reduce the entire zone to submission. The present reinforcements would meanwhile place General Alfau in possession of a force which should suffice at least to clear the road to Tangier and to effect a junction with General Silvestre at Alcazar, but even on this point Count Romanones was far from feeling completely reassured.

The situation at home is also giving him much trouble. The dissident Liberals published this morning a manifesto protesting against the closure of the Cortes at a moment when, besides the Bills awaiting final discussion, there is so much matter of first-class importance, and especially the Morocco problem calling for treatment at the hands of the representatives of the people. There is nothing new in the arguments employed, and the significance of the document lies rather in the number and importance of the signatures attached to it, amongst which are those of fifteen

ex-Ministers, including Señor Montero Ríos, the Marquis of Alhucemas, Señor Gullon, and many other weighty names. The total is given at fifty-six senators and seventy deputies.

The declared loss to the Government of 126 votes in the two chambers cannot fail to weaken very materially their power to carry on the administration of the country. Though they still form in both chambers the strongest numerical group, they no longer maintain the majority over the combined groups of the opposition, on which they have hitherto relied. A coalition of two or more hostile groups will have it in their power to turn them out of office at any moment without even waiting for the Cortes to reassemble. The general expectation is that Count Romanones will turn a deaf ear to the clamour for a summer session. The heat was already set in, many senators and deputies have left for the country, and the prospects of an useful and edifying parliamentary discussion of the situation has been made by the manifesto of the dissidents more remote than ever.

I have, &c.

MAURICE DE BUNSEN.

[29485]

No. 184.

Board of Trade to Foreign Office.—(Received June 28.)

Sir,

Board of Trade, June 27, 1913.

IN reply to your letter of the 23rd June, respecting the new Moroccan mining regulations, I am directed by the Board of Trade to transmit to you herewith, copy of a letter from Sir H. Cunynghame, in which he states that he would be free, between about the 20th July and the beginning of September, to attend the proposed Conference at Berlin on the subject, if it is decided to send a British delegate. As Sir Henry will retire from the Civil Service on the 8th July, it will presumably not be necessary to consult the Home Secretary in the matter.

I am also to enclose a statement showing the principal points in regard to which the new regulations might, in the opinion of Sir H. Cunynghame and of this Department, be advantageously amended.

I am, &c.

GEO. J. STANLEY.

Enclosure 1 in No. 184.

Sir, H. Cunynghame to Mr. Stanley.

Dear Mr. Stanley,

15, The Leas, Folkestone, June 25, 1913.

I SHOULD be able to go to Berlin after my return from Ireland, where I am going on the 3rd July to (say) 20th on the Royal Commission on Metalliferous Mines.

I have an engagement which will take me the first two weeks of September, to attend meetings and give a lecture at the British Association at Birmingham and afterwards on Saturday, the 20th September begin a presidential address to a society at Stoke-on-Trent.

Subject to these arrangements, I am free, as on the 8th July next I retire from the Civil Service.

I presume the proceedings would as before be conducted in French with which language I am more familiar than German.

I am, &c.

H. CUNYNGHAME.

Enclosure 2 in No. 184.

Revised Moroccan Mining Regulations.

Note as to the Principal Points on which the Regulations might in the view of Sir H. Cunynghame and of the Board of Trade be advantageously amended.

1. Article 6 of the regulations of 1910 is omitted from the draft of 1913. The article was intended to give foreigners a substantial right of redress against any arbitrary

acts of the Maghzen; *vide* also the observations upon it in section III (1) p. 2 of the protocol of 1910. It is thought to be of some consequence that the article should be restored.

2. Article 9 of the regulations of 1910 provides for the election by prospectors, or their agents, of domicile in one of a number of towns the necessary notifications having to be made at the domicile thus chosen to the interested persons and further in default of election of domicile the article provides that notifications shall be made in the case of Moroccan subjects to the representative of the Maghzen at Tangier and in the case of foreigners to their legation. The corresponding article No. 8 of the 1913 draft requires notifications in default of election of domicile to be made (irrespective of the nationality of the person) to the representative of the Maghzen nearest to that person's mine.

The form of the article adopted in 1910 appears to be more in accordance with British interests than that proposed in the draft of 1913 and it might be well to revert to it.

3. Article 17 of 1910 stated in its second paragraph that the Service des Mines was bound to communicate to any applicant the list of "permis accordés," together with the map, on which the "permis" must be shown.

This second paragraph is omitted from the corresponding article No. 16 of 1913, and might usefully be restored.

4. Article 42 of 1913 gives the Moroccan Government, with the consent of the Service des Mines, complete power of expropriation of railways and other undertakings, whereas article 45 of 1910 provides that this power shall only be exercised in conformity with the Act of Algéciras.

The articles of the Act which appear to be in question are Nos. 113 to 119, and the Board think it highly important that the safeguards there provided for in the interests of private proprietors should not be abandoned in the manner proposed, and the conduct of the expropriation left to the Government. It also appears to the Board that, in view of these express provisions of the Act with regard to expropriations, the new article is practically *ultra vires*.

5. The requirement of the publication of the tariff of charges which appears in article 50 of the regulations of 1910 might be inserted in article 47 of the new regulations, from which it has been omitted.

6. Article 56 of 1910 is not included in the draft of 1913. Its insertion in 1910 was strongly insisted on by the inspector of mines of Morocco, who said that if the taxes were not appropriated to the Service des Mines, and ear-marked, the Sultan would spend the whole of the money. Perhaps some arrangements exist to prevent this, but the Board are not sure that it is regulated by the Act of Algéciras.

7. Numbers 51, 52 and 53 of the 1913 regulations are quite different from 58, 59 and 60 of the code of 1910. The former, in particular, set up a "cour d'arbitrage," which is changed, in the regulations of 1913, to a "commission arbitrale" with wide powers. Much will depend on the composition of this commission. Meanwhile, article 52 is thought to be too wide in its terms.

8. The new article 63 in the draft of this year seems to give the Sultan too much power. It appears to amend in some respects regulation 73 of 1910 (which is also amended by article 62) and to be designed to avoid the control of the Corps diplomatique.

9. In offering his observations on the draft regulations, Sir H. Cunynghame again draws attention to the point as to the tribunals to which it is proposed to give jurisdiction, which was referred to in the second paragraph of the Board's letter of the 20th June.

Board of Trade, June 27, 1913.

[29937]

No. 185.

Sir Edward Grey to Sir M. de Bunsen.

(No. 26.)

(Telegraphic.) R.

TANGIER Convention.

Foreign Office, June 28, 1913.

During course of recent visit of French President to London, M. Pichon discussed question of Tangier with me. Draft convention and firman were also examined in conjunction with M. Dupeyrat, who came over from Paris at the same time.

[1613]

4 B

Result is, briefly, that Spanish wishes are practically met as regards President of the Assembly being the chief executive officer, and organisation of Public Works Department with special position of Spanish assistant engineer.

On the other hand, both French Government and His Majesty's Government consider it essential that a separate Maritime Sanitary Board should be constituted, such board to consist of one representative from each of the three zones. We are, however, prepared to accept a suggestion made privately and unofficially by the Spanish Ambassador, speaking, as he said, without instructions, that the rules, &c., drawn up by this board, and decisions taken by them in regard thereto, should be applied by the competent local authorities in each zone; in this case the competent authority at Tangier would be under the Department of Public Health, which by agreement has already been assigned to Spain. Spanish Ambassador has undertaken to press this solution on his Government, and your Excellency should urge them to accept the arrangement, which practically concedes to Spain the administrative authority which she demands.

Further, His Majesty's Government trust that, in view of the manner in which Spanish wishes have been met, the Spanish Government will now agree to waive their claim to customs duties levied at Tangier on imported goods destined for the Spanish zone. The sum involved, so far as Spain is concerned, is small, about one-tenth of the whole. France has consented to waive its claim to its share pending completion of railway, as financial position of municipality will be precarious at first. The sacrifice, moreover, is even less than it would appear, as if freed from this charge the municipality will be responsible for a correspondingly larger proportion of service of the 1904 and 1910 loans. In view of readiness of French Government to make this concession, which is nine times as great in their case, we trust that Spanish Government will be no less generous. Refusal would produce unfortunate impression at Tangier.

[29712]

No. 186.

Mr. Kennard to Sir Edward Grey. (Received June 30.)

(No. 176.)

Sir,

Tangier, June 21, 1913.

WITH reference to my despatch No. 172 of the 14th instant, I have the honour to report that little change has taken place in the situation in the Spanish zone during the past week. The efforts of the Spanish troops at Tetuan seem as present to be confined to disengaging the town from the circle of tribal forces which now surrounds it and clearing the heights in the immediate vicinity. Considerable reinforcements of all arms have recently arrived, and General Alfau now has some 10,000 men under his command. A Rifian cavalry regiment from Melilla is being actively employed in raiding and destroying neighbouring villages, and some criticism is being directed against the brutal methods and looting of the Spanish native levies. In the actual fighting during the past week the Spanish losses are said to have not been as heavy as before, and the tribesmen are believed to have suffered severely, a good moral effect being supplied by the Schneider batteries which the Spaniards have now brought into action.

In the western part of the Spanish zone little is reported as to the movements of Colonel Silvestre, who is still at Arzila and has just been promoted to the rank of general. Rebel "harkas" under the command of the great leader, Shereef-el-Hassan, are said to have assembled at Sok-el-Arba of Beni Mesowar between Arzila and Zeenats, but no action has as yet taken place in that district. It is stated that General Silvestre is anxious to occupy Zeenats at once, but that General Alfau is opposed to this step. There is no doubt that it is a strategical point of the highest importance for the Spanish operations, and should be occupied as soon as the military authorities feel themselves in a strong enough position to do so, while having due regard for its proximity to this zone.

Raisuli is still at Zeenats apparently and still shows no signs of openly joining the rebel movement. It is stated that two agents of the Mannesman Brothers have lately been to Zeenats, and it is further rumoured that Raisuli has given an option to the German firm for the purchase of all his properties in the Spanish zone and elsewhere. Should this be the case and any question arise as to the confiscation of these properties in the event of Raisuli being arrested and found guilty of conspiracy, it would most probably further embitter the relations between the German

and Spanish Legations which are already somewhat strained owing to a difference of opinion as to the protection of Raisuli's brother.

Some excitement was caused in Tangier on the 18th instant by the sound of heavy firing from the direction of Ceuta, but quite close to the eastern frontier of the international zone. Smoke could be seen arising from behind the hills on the eastern side of Tangier Bay, and it was even asserted by some that the shells could be seen falling there. My French colleague came to see me in a considerable state of excitement and suggested that we should immediately see the Spanish Chargé d'Affaires and enquire what was taking place, as the wildest rumours were being spread in the town. Señor Caro, as I had expected, knew nothing as to the cause of this firing, but gathered that Spanish cruisers were bombarding the coast as a punitive measure against the Angera villages. We drew his attention to the excitement which had arisen in the town owing to the nearness of the firing, and suggested that he should beg his Government to give him some warning before operations of this kind were undertaken in the immediate vicinity of Tangier zone. We could not, of course, expect the Spanish Government to disclose to us the details of their plan of campaign, but it was essential that we should be able to reassure the people of Tangier in cases of this kind, especially as they are easily inclined to unnecessary panics. It eventually transpired that the object of the bombardment was to draw off the Angera tribesmen from Tetuan for the protection of their villages. It is not believed to have been very effective as most of the shells did not explode, and the women continued their work in the fields without paying attention to them. The "Reina Regente" came into Tangier just after having fired shells only two or three miles away, and did not thereby increase the impression that the neutrality of this zone was being very rigidly respected.

One of the most remarkable features of the local situation is the departure of large numbers of natives from the villages in this zone to join in the fighting at Tetuan. When riding in the country, one is struck by the scarcity of men, who should now be working on the harvest and who are being replaced by the women and children. My French colleague is somewhat apprehensive as to the effect which may be produced by the return of these villagers, possibly without means of subsistence and having lost relatives in the fighting with the Spaniards. I pointed out that, if the tribesmen were severely defeated, the Tangier contingent would probably return here in a chastened frame of mind, but nevertheless it is unfortunate that they should have gone in such large numbers and it indicates how general the movement against the Spaniards has become. I have looked in vain for any change in the attitude of the native population in Tangier towards Europeans or even the large Spanish elements here, and yet it seems curious that only a few miles away there should be such desperate fighting between them.

I was greatly surprised on hearing that the French Government had stated that the proposal for doubling the strength of the local police and bringing in a strong Algerian element had emanated from me, and further that the French Ambassador had heard a report that I had contemplated the landing here of British troops from Gibraltar. I immediately saw the French agent and asked him if he could perhaps explain the origin of this misunderstanding. M. de Valdrôme at once replied that of course these statements were false, that I had not proposed the doubling of the police, and that we had only discussed the matter on his initiative as a measure which might eventually be considered in case the situation grew worse. With regard to my contemplating the landing of British troops he said that I had once in a private conversation stated that there were ships and men at Gibraltar who could be sent here at short notice in case this town were suddenly attacked, and the police and ships of war could not hold their own. I pointed out to M. de Valdrôme that this hardly implied the immediate contemplation of the despatch of British troops here now. He admitted that there must be some misunderstanding, and stated that he would telegraph to Paris to rectify the error. I trust that this will be done, as it renders any co-operation with the French agency difficult, if misleading notions as to my attitude are given in London and Paris. I have noticed that my French colleague has always been most anxious to preclude even the possibility of sending British warships here, and always suggests the necessity of French or Spanish action in case of need.

With regard to the immediate measures necessary for ensuring the security of Tangier and its district, I consider the prolongation of the mandate of the French extra-urban and the Spanish urban "tabors" for another six months, and their increase to full strength (i.e., 550 in the French and 250 in the Spanish "tabor") sufficient to protect the town. It must be remembered that the protection of the

town and the ensuring of the neutrality of the international zone are two different questions, though we are equally responsible for both, and they can hardly be dissociated one from the other. I do not think that this town under existing circumstances is in any danger of being threatened or attacked. The real danger here comes from the townspeople themselves, who are easily thrown into panic. The Jewish element, who believe readily the wildest rumours, might suddenly leave their shops, and the native population might take advantage of the opportunity to loot their premises, which might occasion disorders of a more or less serious nature, but the police and the French and Spanish warships in the harbour should be able to deal with any disturbance of this kind.

As regards the safeguarding of the neutrality of the international zone throughout its whole area, the 500 extra-urban police cannot be expected to do this efficiently. The Fals is at present largely denuded of its male population who have gone to join in the fighting at Tetuan; but the natives complain bitterly of the lack of protection for their cattle and crops, the workmen have been withdrawn from the construction of the Sharf-el-Akab road, and the situation there generally is far from satisfactory. Whether in order to avoid undesirable international complications—it is better to leave it for the moment as it is—is a matter on which I hesitate to express an opinion. There are grave objections to a further increase of French preponderance here by increasing the strength of the police with Algerian tirailleurs. As I have reported in my despatch No. 175 of to-day's date, every available post in the gift of the Makhzen is being filled by French protégés and tools, so much so that the native population will hardly believe that Tangier is really to have an international régime. I, therefore, think that any further increase of French strength, either military or civil, is to be greatly deprecated. Spanish action here is equally undesirable, and, therefore, as nothing else can be done, and as there is no actual danger at present at any rate, the matter had perhaps best be left as it stands. What is really required is energetic action on the part of the Spanish forces, and a severe lesson to the tribes who would then no doubt submit or retire into the mountains. But this lesson must first be administered, and it is remarkable how the tribesmen are maintaining their positions despite the severe losses they are said to have sustained. The movement also is not due to Raisuli or any other individual instigator, but is a generally popular one, embracing most of the tribes in this region, including the Tangier district.

I am sending a copy of this despatch to His Majesty's Ambassador at Madrid.

I have, &c.

H. W. KENNARD.

[29714]

No. 187.

Mr. Kennard to Sir Edward Grey.—(Received June 30.)

(No. 178.)

Sir,

Tangier, June 23, 1913.

ON the receipt of your telegram No. 25 of the 21st instant, regarding the Spanish proposal that Tangier should be held responsible for preventing natives from the international zone crossing the frontier to join the tribes in fighting against the Spaniards, I saw my Spanish and French colleagues, and we thoroughly discussed the matter. We finally agreed that we could only adopt the following measures:—

1. To request the Basha to warn the heads of the various villages in the district that they must do their utmost to prevent any villagers crossing the frontier to join in the hostilities, and to endeavour to call back those who have already gone.
2. To use such influence as we can through our protégés and Tangier notables who are in close relations with the three Legations to dissuade the natives in the town and district from taking measures which affect the neutrality of this zone.

We are not very sanguine as to the efficacy of these remedies; the Basha has little authority, and such natives as intend to join in the fighting have probably already entered the Spanish zone. We feel, at any rate, that we can only recommend measures of moral persuasion. Any practical attempt forcibly to prevent natives from here crossing the frontier might involve us in hostilities which we have not the force to deal with, nor the desire to incur, in view of the peculiar position in which this zone is placed. All is comparatively quiet here now, but any active interference with the liberty of the natives to join in the cause against Spain might bring about the outbreak of a serious agitation.

As to the responsibility which the Tangier zone can incur for allowing its inhabitants to fight against Spain, it would seem impossible to make it answerable for the acts of Moors who have chosen to throw in their lot with the tribes who are now opposing Spanish domination. It is true that a considerable number of men have gone from here, as I have previously reported, but it would be difficult to estimate how great or how small a part they may play in the hostilities. They will, no doubt, soon return, when they have been severely defeated, and they can only play a very minor rôle in the fighting. What seems more serious is the contraband traffic in arms and ammunition which passes through this zone. Nevertheless, it is unfortunate that we cannot take practical measures to safeguard the strict neutrality of this zone, but, not having the necessary forces, and wishing, above all things, to maintain the tranquillity which now obtains here, we cannot recommend anything but these measures of moral influence, which may, I fear, not prove very efficacious.

I am sending a copy of this despatch to His Majesty's Ambassador at Madrid.

I have, &c.

H. W. KENNARD.

[27028]

No. 188.

Sir Edward Grey to M. Cambon.

Your Excellency,

Foreign Office, June 30, 1913.

I DID not fail to give my most careful consideration to the note which your Excellency was good enough to address to me on the 9th instant on the subject of the position of semsars and mokhalats in Morocco.

As I had the honour to inform your Excellency in my note of the 1st April last, His Majesty's Government have always deplored the abuses which have arisen in the past in connection with foreign protection in the Shereefian Empire, and they can but welcome a return to a strict application of the provisions of the Convention of Madrid.

It appears, however, from your Excellency's note under reply, that the French Government are under the impression that the majority of the representatives of firms non-resident in Morocco live at Fez, and that they represent, almost exclusively, British firms.

The French Government appear to be misinformed as to the number of semsars at Fez representing firms non-resident in Morocco. A reference to the list of semsars presented to Cid Guebbas by His Majesty's Legation at Tangier will show that the majority of the semsars of British non-resident firms reside elsewhere than at Fez. His Majesty's Government are also quite unable to admit that the right to appoint semsars has been exercised almost entirely by British firms.

The issue of semsar certificates to non-resident firms was, as a matter of fact, only authorised by His Majesty's Government in 1893, when His Majesty's Minister at Tangier reported that the French Legation were granting such certificates to firms in France. Since that date the practice has been continued by His Majesty's Legation, but it has invariably been their strict rule to issue certificates only to firms doing a large business in Morocco, and to limit their number to two in each instance, except so far as firms having not merely agents but branch establishments at more than one port are concerned; in which case two semsars have been allowed for each such establishment. His Majesty's Government have reason to believe that this procedure is considerably stricter than that applied by several other Legations when granting semsar certificates.

I would draw your Excellency's attention to the fact that, notwithstanding the importance of British trade with Morocco, the total number of British semsars throughout the whole country is only about 125.

While, however, His Majesty's Government cannot but repudiate energetically the suggestion that Great Britain, alone among the Powers, has not observed the provisions of the conventions governing foreign protection in Morocco, I need hardly assure your Excellency that they are anxious to meet the wishes of the French Government in every way compatible with a due regard to British interests.

His Majesty's Government are accordingly ready, as a mark of their goodwill, to assent to the French proposal that no fresh semsar certificates shall be issued to British firms after a given date, provided that all the other Powers signatory to the Algeciras Act agree to adopt a similar procedure in regard to their nationals.

[1613]

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In return for this concession they would only request that, in addition to the semsar certificates inscribed on the lists prior to the 1st January, 1913, no objection, on the ground of a grant to non-resident firms, shall be raised to those which may have been issued by His Majesty's Legation at Tangier since that date, if they are otherwise in order.

His Majesty's Government observe with regret that, in addition to the question of semsar certificates, a divergence of views apparently also exists between the two Governments with regard to the position of mokhalats, inasmuch as the French Government now express the opinion that the terms of the conventions of 1863 and 1881 authorise the Moorish Government to refuse mokhalat certificates to persons other than those engaged in agriculture.

I had the honour to remind your Excellency on the 1st April last that the Makhzen informed the foreign representatives at Tangier early in 1901 that merchants were not allowed mokhalats, this category of protected persons being limited to servants and workmen.

The Moorish contention was discussed at the time at a meeting of the Diplomatic Body, when, as all the representatives were in accord, the French Minister and the Portuguese Chargé d'Affaires were requested to draw up a note which should embody their views in the matter.

The note thus drafted was taken by Sir A. Nicolson as the basis of a communication subsequently addressed by him to the Moorish Commissioner for Foreign Affairs on the subject, in which the following passage occurs:—

"With respect to your observation that merchants have no right to mokhalats, I would point out that article 9 of the Convention of Madrid lays down no restriction in that respect. Article 9 speaks in general terms of 'employés or servants of foreign subjects,' and it does not specify the nature of the employment on which such employés or servants should be employed; it may be agricultural or commercial, or of any other kind. Article 9 clearly supersedes the convention of 1863 on this point, as in article 10 of the Madrid Convention it is especially mentioned that the provisions of the convention of 1863 are maintained as regards semsars; if the provisions of the 1863 convention still governed as regards 'associés agricoles,' this fact would have been specially mentioned also."

The views respecting mokhalat certificates expressed in the extract I have quoted above thus represented the unanimous opinion of the Diplomatic Body at Tangier in 1901. His Majesty's Government still consider that those views correctly interpret the terms of the Madrid Convention, and they can therefore only maintain their position in the matter.

In conclusion I would thank your Excellency for the courteous assurance that the French Government are ready to send instructions to Tangier that the British lists of protection shall be revised in the most conciliatory spirit. As I stated in my note of the 15th ultimo, His Majesty's Chargé d'Affaires has already been authorised to send a delegate to attend the examination of the lists, and the delay which has occurred has been caused by the Moorish Commissioner for Foreign Affairs questioning the validity of certificates issued to non-resident firms.

I have, &c.
E. GREY.